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JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History—*Freeman*

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VOLUME XI

LABOR, SLAVERY, AND  
SELF-GOVERNMENT

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BALTIMORE  
THE JOHNS HOPKINS PRESS  
1893



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## TABLE OF CONTENTS.

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	PAGE
I. The Social Condition of Labor. By Dr. E. R. L. Gould, . . . . .	9
II. The World's Representative Assemblies of To-day : a Study in Comparative Legislation. By Professor Edmund K. Alden, . . . . .	51
III-IV. The Negro in the District of Columbia. By Edward Ingle, . . . . .	99
V-VI. Church and State in North Carolina. By Professor Stephen B. Weeks, . . . . .	209
VII-VIII. The Condition of the Western Farmer as illustrated by the Economic History of a Nebraska Township. By Arthur Fisher Bentley, . . . . .	285
IX-X. History of Slavery in Connecticut. By Dr. B. C. Steiner, . . . . .	377
XI-XII. Local Government in the South and the Southwest. By Professor Edward W. Bemis and others, . . . . .	459
Popular Election of United States Senators. By John Haynes, . . . . .	547





I

# The Social Condition of Labor



JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE  
HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History.—*Freeman*

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ELEVENTH SERIES

I

The Social Condition of Labor

BY E. R. L. GOULD, PH. D.

*Resident Lecturer on Social Science and Statistics, Johns Hopkins University*

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BALTIMORE  
THE JOHNS HOPKINS PRESS  
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## PREFACE.

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It is strange that in an age when social questions challenge so largely the thoughts of men, little attention is paid to fact in comparison with dogma. We ought not to consider it a disparagement of theoretical principles to say that they have been pushed too far, the natural result being a threefold grouping of society: scholars preaching philosophical beatitudes, radical divisions caring for little else save immediate material ends, while between them lies the great conserving body, by no means unsympathetic, but very often inactive from having no clear conceptions of what ought to be done. By no means socialistic in my ways of thinking, I nevertheless feel that before prescribing ideals it behooves us first to know whether the environment is adjusted to their possible realization.

Neither dogmatists nor agitators have any love for the statistician, for the simple reason that he disturbs the dream of the one and the occupation of the other. But I believe thoroughly that it is he who can find the key to most of the social problems of labor. His methods are the surest, as he devotes himself to the diagnosis of separate complaints instead of manufacturing universal cures.

The United States Department of Labor, under the able direction of the Honorable Carroll D. Wright, may fairly claim the honor of having in its sixth and seventh annual reports presented a grouping of facts in a fuller, more scientific and more useful way than has ever been done before in relation to the social-economic position of industrial labor. As one who took so large a part in the carrying out of this work, I have attempted in the following pages to analyze the principal facts, and to compare results

with the essential features of a moderately conceived social ideal. My chief aim has been to see comparatively how an ambitious, intelligent, well-living laboring class fares in economic competition. This question is a crucial one, for if a high standard of life begets superior force, intelligence and skill, these latter can be depended upon to perpetuate themselves, and their exercise to react alike to the benefit of employer and employed.

The present paper, dealing as it does with questions of such broad international interest, has been presented to the "Académie des Sciences Morales et Politiques," and is published simultaneously in the transactions of that body, in "La Reforme Sociale," the "Jahrbücher für National-oekonomie und Statistik," the "Contemporary Review," and the Johns Hopkins University Studies. The subject-matter has reference to the allied industries of coal, iron and steel. I hope soon to be able to follow it up with a study, on similar lines, of the textile branches of manufacture. The inquiry itself being somewhat of a novelty in Europe, a rather long introduction was necessary to explain its character and objects. While its omission would not have been felt by American readers, its incorporation did not seem out of place, in order that the scope and methods of the investigation might be thoroughly understood.

JOHNS HOPKINS UNIVERSITY,  
BALTIMORE, *December*, 1892.



# CONTENTS.

## *I. Introduction :*

- (1) Absence of reliable information concerning the conditions of labor and industry in both the United States and Europe..... 9
- (2) In 1888 the Department of Labor requested by Congress to make a detailed investigation concerning the cost of living of laborers and the cost of production of staple articles of production in the United States and Europe. 9
- (3) A scientific basis for tariff legislation, based on the comparative cost of production, first proposed a number of years previously by Mr. Carroll D. Wright, the present Commissioner of Labor..... 10
- (4) The investigation by the Department of Labor was thoroughly non-partisan. The facts demanded by both parties.....10-12
- (5) The first report includes the industries of Coal, Iron, Steel, etc., in the United States, Great Britain, France, Belgium, Germany and Luxembourg, and to a lesser extent, Italy and Spain..... 13  
A second report, not yet published, will deal with the textile industries in a similar way..... 13
- (6) Success of the investigation. Its character and scope....13-14

## THE CONDITION OF LABORERS IN THE UNITED STATES AND EUROPEAN COUNTRIES AS SHOWN BY FAMILY BUDGETS.

### *I. A Consideration of Family Budgets by Industries and Nationalities :*

1. Table I: Bituminous Coal Mining:—Family Budgets of Receipts and Expenditures..... 15  
Textual analysis of table .....14-17
2. Table II: Bituminous Coal Mining:—Average of Budgets of Groups composed of Five Miners each ..... 18  
Textual analysis of table..... 17
3. Table III: Bar Iron Manufacture:—Family Budgets of Receipts and Expenditures..... 19  
Textual analysis of table .....20-21
4. Table IV: Bar Iron Manufacture:—Average of Budgets of Groups composed of Five Puddlers each..... 22  
Textual analysis of table..... 21
5. Table V: Steel Manufacture:—Family Budgets of Receipts and Expenditures..... 23

### *II. A Comparison of Conditions in the United States and Europe :*

1. Table VI: The totals for the United States and Europe compared by industries..... 25

Textual analysis of table—To what extent has a fair social standard of comfort been realized, as shown by :—	
[a] The support of the family by the unaided efforts of the husband.....	24-28
[b] The expenditure for food. Prices of food in Europe and America compared.....	28-30
[c] The expenditure for drink. Its proportion and relation to expenditure for rent.....	30
[d] Savings: The true economic significance of savings.....	30-32
 <i>III. A Consideration of the Foregoing as relating to a Normal Family:</i>	
1. Definition of a normal family.....	32
2. Table VII: Recapitulation of Budgets for Normal Families by Industries.....	32
Analysis of table.....	32
 <i>IV. A Comparison of the Condition of Laborers by Nationalities in their Native Country and in the United States:</i>	
1. Table VIII: All Industries :—Family Budgets by Nationalities in their Native Country and in the United States.	34
Textual analysis of table .....	33-38
The standard of comfort of the Native American surpassed by that of the Americanized Briton and German, but itself surpasses that of other nationalities.....	33
The American standard quickly assumed by the transplanted foreigners employed in these industries.....	35-36
The Poles, Bohemians, Italians, etc., when drafted into industries, no exception to this rule.....	37-38
 THE COST OF PRODUCTION OF COAL, IRON AND STEEL IN THE UNITED STATES AND EUROPE.	
1. The results of the investigation.....	38
2. Table IX: Bessemer Pig Iron Manufacture.—Relation between the earnings of workmen, the labor cost and the total cost of production.....	39
3. Table X: Bar Iron Manufacture.—Relation between the earnings of workmen, the labor cost and the total cost of production.....	40
4. Table XI: Steel Rails Manufacture.—Relation between the earnings of workmen, the labor cost and the total cost of production.....	41
5. Concluding Remarks .....	41-42
A high labor cost not a necessary sequence of a high rate of wages.—The explanation: good wages are translated into better nourishment, greater strength, skill and efficiency: the American laborer himself largely the creator of his wages, through the standard of life which he has adopted. Industrial supremacy to those who earn the most and live the best.....	42

## THE SOCIAL CONDITION OF LABOR.

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For many years there have been, so far as the general public is concerned, both in Europe and America, exaggerated ideas of the industrial conditions prevailing on the two continents. In the absence of reliable statistics, interested parties have been able to tell harrowing tales alike of the plutocratic American manufacturer and the European "pauper laborer" and be believed.

Though thinking men have long been weary of exaggerated statements, and private investigators have sought to learn the truth, the field of comparative industrial statistics is so vast, as well as so difficult to exploit at first hand, that results have necessarily been few. The meagerness of exact knowledge, always recognized, was never, perhaps, more keenly felt than when in 1888 the Ways and Means Committee of the United States House of Representatives undertook the revision of the tariff. The effect of this was that Congress requested the Department of Labor, an organ of government whose functions are solely scientific, to investigate comprehensively and on a comparative basis the salient facts of industrial competition. The commission given, to quote the text, was "to ascertain at as early a date as possible, and whenever industrial changes shall make it essential, the cost of producing articles at the time dutiable in the United States, in leading countries where such articles are produced, by fully specified units of production, and under a classification showing the different elements of cost or approximate cost of such articles of production, including the wages paid in such industries per day, week, month or year, or by the piece, and hours

employed per day, and the comparative cost of living and kind of living." One need hardly remark that no other legislature has ever assigned to any agency the task of peering so deeply into the innermost recesses of industrial life.

Mr. Carroll D. Wright, the Commissioner of Labor, some years ago wrote a pamphlet upon the scientific bases of tariff legislation, in which he developed the thesis that, admitting the protective principle, a tariff, to be fair and just to all parties, must be based upon the comparative cost of production in competing countries. This idea was not foreign to the tastes of Mr. Mills and his associates on the Ways and Means Committee, and so it happily came about that the author of the plan was entrusted with its development.

As there has been much misunderstanding in relation to this inquiry of the Department of Labor, I may be pardoned for offering a few words of explanation. In the first place, it was not at all a partisan expedient. The House of Representatives, by a unanimous vote, and the Senate nearly with unanimity, asked that it be made, the majority in each branch of the legislature at that time being composed of different political parties. Neither was it animated by a sense of hostility to European industrial interests. Extravagant ideas had so long prevailed that there could be no harm in making the real truth known. Furthermore, reciprocal favors would be bestowed, since from the results each nation would learn its own industrial situation as well as the conditions under which it must compete. Thirdly, the inquiry would at least indicate whether the American tariff was laid solely in the interests of labor, and whether the manufacturer did not himself gain thereby. Lastly, and most important in the eyes of all who care less for individual advantage than for the welfare of the whole, it would demonstrate the comparative utility, purely from the economic standpoint, of laborers earning high or low wages, and maintaining different standards of life.

I cannot insist too strongly upon the scientific aims and non-partisan character of the investigation. Absolutely no other motive than the desire to know the facts dominated alike those who instigated and those who carried out the work. If the European manufacturer averred that he was the victim of unjust discrimination, he ought to be only too glad of an opportunity to expose the truth. To the American claiming that he was handicapped by the payment of higher wages, there could exist no motive for concealment. The workingman, so long told that the really so. The interests of economic science, industrial really so. The interests of economic science, industrial prosperity and social justice would all be served. The character and attainments of the Commissioner of Labor and his principal associates offered a guarantee that the work would be impartially done, and the practice of the Department in so presenting information that its source cannot be recognized made sure that industrial or trade secrets would not be disclosed.

Let me remark, in passing, that a tariff based strictly upon comparative costs of production is not considered, especially by business men, an available scheme. It is evident that not only is it impossible to find a unit of comparison between articles made of the same material but different in pattern, texture and weight, but also the costs of plain units of manufacture will vary according to fluctuations in the price of labor and of commodities. This is perfectly true, and was clearly understood by all who furthered the inquiry. It was never designed to erect either a fixed or sliding scale of tariff duties on all or a part of the articles scheduled. General industrial conditions, not special trade necessities, were the subjects of consideration. The social and economic welfare of the American laborer was the object most at heart, since the inquiry sought for facts to guide the legislator in his distribution of social justice. There was never a thought of being useful to the customs service in its control of invoices. I



mention this to clear up a misconception which unfortunately gained credence on some parts of the Continent through the medium of newspapers which took absolutely no pains to verify their suspicions. Though this step militated against the success of the work, it nevertheless caused an injustice to the country concerned, since in some instances the facts could only be obtained from places which I am morally convinced did not represent the most favorable conditions. For so unfortunate an incident, misconceived patriotism and mistaken zeal are alone responsible.

In the latter part of 1888 a commission of six officials of the Department of Labor, over whom I had the honor to preside, commenced investigations in Europe. The field of operations was naturally the principal manufacturing countries,—Great Britain, France, Belgium, Germany and Switzerland, and in a lesser degree Luxembourg, Italy and Spain. Only the important industries of coal, iron, steel and glass and cotton, woolen, silk and linen textiles were included. Simple and standard units of manufacture, as for example a ton of steel rails of the same size and yards of cloths uniform in organization, texture and weight, which are made the world over, and about whose production trade secrets no longer exist, were the objects of inquiry. The greatest care was taken to secure homogeneity in the units, as otherwise a comparison of costs of production would be misleading and valueless.

As may readily be judged, it was not an easy matter to conduct the investigation, especially in Europe. American manufacturers have been so often approached by statistical agencies that they were naturally freer to respond. But in Europe, where the statistics of labor and industry have been far less developed, one could not, in the nature of things, expect a very general willingness to communicate to foreigners information of so confidential a character. In the midst of the work the McKinley tariff was imposed, a contingency which was entirely unforeseen at the

outset, aggravating the natural difficulties of the situation and becoming the root of much misunderstanding. I have already pointed out that there was absolutely no relation between the McKinley bill and our inquiry. Let me say, further, that no information whatever in regard to the textile industries was communicated from Europe before the measure became a law. The Commissioner of Labor, at the request of the Senate Finance Committee, did make a preliminary report upon the cost of production of iron and steel, but, as is well known, the tariff on the most of such articles was either left untouched or was reduced. Nevertheless the idea got abroad in some quarters that ours was a spy service in the interest of the McKinley bill.

In this connection it is a great pleasure for me to recognize the fair-mindedness of "*Le Temps*." M. Francis de Pressensé, as soon as the report came to his ears, addressed me a letter, stating that he would be glad to know the real objects of our mission. The salient parts of my reply were published, and the utility of such inquiries, not only to the United States, but to Europe, was commended by this enlightened journal.

It is obvious that if the results of such an investigation are to be of any use, the hearty coöperation of a sufficient number of manufacturers must be enlisted. The Department of Labor may claim that such a condition has been fairly complied with. In regard to the first group of industries, coal, iron and steel, with which the only volume now published deals, the Commissioner states that cost of production returns were received from 454 American and 164 European establishments. Budgets of cost of living were secured from 2490 workmen employed in these industries in America and 770 in Europe, while the wages of several thousand laborers, at least one-third of whom were European, were tabulated. So liberal were the responses from the two continents! Really representative facts were obtained for all important branches of these

industries, except from the American producers of steel rails, who, with one single exception, refused to state their cost of production.

There can be no caviling as to the accuracy of the facts themselves. Statements on cost of production and tabulations of workmen's wages were taken directly from the account books and pay-rolls of the different establishments. The budgets of family income and expenses were gathered with all the care that that delicate and difficult branch of statistical work demands. Without entering too much into details, one may say that in those cases where the laborers did not keep books or deal at a coöperative store, we were often accompanied to the houses by a retired postman or policeman or some other person who was well acquainted with all the families and enjoyed their confidence. The tabulation of wages from the pay-rolls of the manufacturer gave a control over the statements of the workman as to his earnings, and it will be generally recognized by all who have themselves made personal investigations of this character, that if the truth is told about earnings, at least an honest attempt will be made to speak truly of expenses. The schedules of questions were so constructed that it was not difficult to detect, especially after a little experience, any material inaccuracy.

With the understanding that the statistical bases have been broad enough in design and sufficiently thorough in execution, let us pass on to the results. These I shall present chiefly in the form of tabular statements, making only such textual observations as seem necessary to elucidate the figures.

The number of families to whom the subsequent facts relate is first given. Next follows the average size of the family, the parents being included. The American family is the smallest; the English, Belgian, and German following in the order named. Proprietorship of homes is much more common in America than in Europe. The next column, taken in conjunction with the second, discloses a

TABLE I.  
BITUMINOUS COAL MINING.  
FAMILY BUDGETS.

COUNTRY.	Families.		Dwellings.		YEARLY INCOME OF FAMILY.				ANNUAL FAMILY EXPENDITURE.												SURPLUS.	
	Total Number.	Size of Family.	Families own- ing House.	Size of House.	Earnings of Husband.	Other Income.	Total Income.		Rent.	Food.	Clothing.	Books and News- papers.	Alcoholic Drinks.	Tobacco.	Other Expenses.	Total Expenditure.					Amount.	Per cent.
					Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.				
United States	508	5.3	134	3.9	\$426 73.77.5		\$123 57.22.5	\$550 30	\$61 19	11.7	\$237 44.45.2	\$112 10.21.4	\$5 30	1.0	\$18 09	5.2	\$9 30	1.8	\$81 29	\$524 71	\$25 59	4.6
Great Britain.	166	5.4	1	3.8	376 72.76.1		118 53.23.9	495 25	47 50	10.4	246 35 53.9	66 30 14.5	4 07	0.9	22 65	7.3	10 79	2.4	59 66	457 32	37 93	7.7
Belgium .....	10	6.0	1	3.3	291 50 68.3		135 65.31.7	426 35	18 96	5.1	218 20 58.8	62 83 16.9	1 38	0.4	26 50	8.5	5 39	1.4	38 04	371 36	55 19	12.9
Germany.....	18	7.1	.....	3.3	257 51 65.8		133 98.34.2	391 49	38 64	10.5	193 60 52.4	65 72 17.8	2 77	0.8	11 48	4.1	3 86	1.0	53 32	369 39	22 10	5.6

curious fact. The size of the habitation is in inverse proportion to the number in the family.

Not only are the total earnings of the family highest in America, but the contribution of the husband thereto is both absolutely and relatively larger than elsewhere. There is not, however, so great a difference in the proportions, the Englishman being nearly equal, the Belgian 9 per cent. and the German 12 per cent. less.

A large share of the American's outgo is for rent. Here again both absolutely and relatively he occupies first place. For food his total expense is not quite so great as for his British confrère, but passes the Belgian and the German, who have much larger families. But he is able to nourish his family better on a far smaller proportion of his total expenses, viz., 45 per cent., as against 59 per cent. and 52 per cent. respectively.

As regards clothing, Great Britain presents the most favorable conditions. If we assume that reasonable necessities were fully complied with, but no extravagances indulged, then the American is most poorly off. He must spend 40 per cent. more to clothe a family of two fewer individuals than the German, for example. It must be remembered that there is not the same disparity in the price of clothing used by the workingman in the two continents as there is in that worn by the richer classes. The reason is that the former is largely of home manufacture and made up by the sweated denizens of New York's miserable tenements. The clothes for the rich man are still generally imported and made into garments by trade-union labor.

The American coal-laborer spends more on books and newspapers than his European fellow-workers, and less for alcoholic beverages than any except the German. In both of these respects is he in particularly marked contrast with the Belgian. Finally, in comparing expenses with revenue, we find the American less provident than any of the others. He puts aside  $4\frac{1}{2}$  per cent. of his income to the German  $5\frac{1}{2}$  per cent., the Englishman  $7\frac{1}{2}$  per cent., and the Belgian 13 per cent.



The foregoing table refers to all classes of workmen in the coal industry. It may happen that there is a larger proportion of what may be called skilled laborers, *i. e.* foremen, miners, enginemmen, masons, etc., in some cases than in others. This is actually true, the proportion of such labor being 80 per cent. amongst the American families represented, 50 per cent. the English, 66 per cent. the German and 90 per cent. the Belgian. Some allowance must be made for this fact, though the influence is not so great as might appear at first sight.

The general truth of the above statistics is strikingly verified by the following table, which displays the average cost of living of five miners in each country. The selections were made from those earning the highest wages in their respective countries. No very important divergence from results previously mentioned is manifest.

A comparison of the earnings of coal-miners in America by nationalities offers some curious and, perhaps to many, unexpected results. The average income of 114 miners of American birth was \$381.14 per annum. Forty-four British miners at home earned on the average \$402.78 annually, while 183 miners of British origin in the United States received \$410.46 each. The figures for 11 German miners are \$265.03 at home, and for 50 in the United States \$444.83. The American coal-miner on his own soil is clearly at a disadvantage with British and German fellow-workmen, and even gets less than the British in their own island. To the German the change is especially marked. The figures, be it remembered, are for the heads of families, and do not in all, perhaps in the majority of cases, represent the total income of the family.

In addition to the foregoing facts, if we consider the further questions of hours of daily labor, sliding-scale payments and stability of organization, one must feel convinced that the British miner at home is the best off. Observation as well as statistics have led me to this conclusion.

TABLE II.  
THE COAL MINING INDUSTRY.  
AVERAGE OF BUDGETS OF GROUPS COMPOSED OF FIVE MINERS EACH.

NATIONALITIES.	YEARLY INCOME OF FAMILY.			ANNUAL FAMILY EXPENDITURE.										SURPLUS.					
	Average Size of Family.	Size of House.	Earnings of Husband.	Earnings of Children.	Other Income.	Total Income.	Rent.	Food.	Books and Newspapers.	Alcoholic Drinks.	Tobacco.	Other Expenses.	Total Expenditure.	Amount.	Proportion.				
Average of Five American Miners.	3.8	3.4	\$518 75 100.	.....	.....	\$513 70	\$54 00	11.1	\$202 36 41.5	\$4 40	0.9	\$6 00	1.2	\$17 60	3.6	\$203 84	\$188 22	\$25 54	5.0
Average of Five English Miners.	5.8	3.8	\$420 65 100.	.....	.....	423 65	49 14	11.1	246 08 55.9	2 40	0.5	18 68	4.2	2 43	1.8	117 23	443 05	49 70	10.1
Average of Five Belgian Miners.	5.4	3.0	\$324 49 100.	.....	.....	324 49	16 45	5.0	187 99 58.2	0.20	0.06	23 61	7.2	4 67	1.4	91 30	336 22	8 27	2.5
Average of Five German Miners.	8.2	3.6	288 65 81.7	.....	\$66 93	355 48	26 37	11.3	108 36 52.2	3 00	0.9	6 23	1.9	4 04	1.3	104 19	372 86	33 12	9.3

TABLE III.  
BAR IRON.  
FAMILY BUDGETS.

COUNTRY.	YEARLY INCOME OF FAMILY				ANNUAL FAMILY EXPENDITURE.												SURPLUS.											
	Families.		Dwellings.		Earnings of Husband.		Other Income.		Total Income.		Rent.		Food.		Clothing.				Books and News-papers.		Alcoholic Drinks.		Tobacco.		Other Expenses.		Total Expenditure.	
	Total Number.	Size of Family.	Families owning House.	Size of House.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.			Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.
United States	623	4.8	112	5	\$698 49	89.1	\$85 62	10.9	\$784 11	\$107 33	16.0	\$281 21	41.9	\$123 88	13.4	\$8 25	1.2	\$25 10	3.7	\$13 17	2.0	\$112 56	\$671 50	\$112 61	14.3			
Great Britain.	114	4.8	...	4.2	438 99	84.4	81 00	15.6	519 99	53 27	11.1	226 08	47.0	95 76	15.8	5 84	1.2	20 77	4.4	12 73	2.6	66 22	480 67	39 32	7.6			
France.....	40	5.3	...	4	331 62	71.4	133 12	28.6	464 71	30 98	7.7	165 84	48.8	89 11	22.2	2 95	0.7	46 73	11.7	5 26	1.3	30 22	401 09	63 65	13.7			
Belgium .....	75	5.5	5	3.5	213 51	59.4	145 86	40.6	359 37	34 23	9.7	165 00	46.7	83 45	23.6	3 37	1.0	18 57	5.2	5 73	1.6	43 10	353 45	5 92	1.6			
Germany .....	22	6.0	1	1.9	243 62	86.4	38 28	13.6	282 20	17 49	6.2	147 56	51.2	54 96	19.8	2 44	0.8	14 78	5.1	4 05	1.	49 19	290 46	.....	.....			

Turning now to the manufacture of bar-iron, we have in Table III statistics on similar lines to those in Table I.

Here, too, the average family is smaller in the United States than in any of the continental countries, and it is also better housed. Astonishing as it may seem, the size of the habitation varies again in an inverse ratio to the size of the family. Great Britain is not far behind the United States, while France, Belgium and Germany follow in the order named. The latter has the poorest accommodation for the largest family. The husband in the United States earned  $\frac{9}{10}$ ths of the total income, and thus fulfilled that highest of social requirements of being able to support the family by his unaided effort. British heads of families are nearly in the same condition, but in all the other countries such a contingency seems impossible for the average workman in the bar-iron industry. In Belgium, for example, only  $\frac{3}{4}$ ths came from the husband's wages. The rent column offers no important deviation. But it must be acknowledged that the American was obliged to spend far too large a proportion here. The American family appears to be better nourished than the others on a smaller relative expenditure. The amounts spent under this head in the different countries, taken together with the size of the families, and a table of prices of food which follows later, offer serious ground for reflection, especially to Continental statesmen.

The figures for clothing seem to show an advantage for the British iron-worker, though the American has not spent a very much larger proportion. The American again leads the list in expenditure for books and newspapers. He spends more for drink in this case than any except the Frenchman, though proportionally his outgo is the smallest of all,—3.7 per cent. to 4.4 per cent., to 5.1 per cent., to 5.2 per cent. and 11.7 per cent. respectively. Remark, in passing, an exceedingly unfortunate showing in the three continental countries. The Frenchman spent 4 per cent. more for liquor than for house-rent, while in

the case of Belgians and Germans the proportion of expenditure was abnormally high.

Naturally with a so much larger income the per cent. of earnings saved is greater in the case of the American. Next comes the Frenchman, then the Englishman and the Belgian. In Germany a majority of families were unable to make ends meet. I am far from saying that this represents the average condition in that country. The locality whence these budgets were gathered is not industrially the best placed. More representative districts would have been chosen had not shortsighted views intervened to prevent the collection of data.

The proportion of skilled to ordinary labor amongst the families represented was highest in Germany, 69 per cent., next in France 67 per cent., next in Belgium 60 per cent., then in America 57 per cent., and finally Great Britain with 51 per cent. A study of the figures cannot scientifically be made without considering this fact, for naturally the higher the proportion of skilled labor the more favorable should the economic situation appear. However, the range of variation is not sufficient to vitiate the results, which are only confirmed by the following table, where homogeneity is secured. Groups of five puddlers belonging to the different countries have been chosen quite at random, and their incomes and expenses averaged.

The general conditions amongst steel-workers appear to be, broadly speaking, similar to those prevailing in the iron industry, only the American has not as great an advantage in the matter of earnings as before. This is probably due to the larger use of mechanical processes, which enables the manufacturer in the United States to dispense in a greater degree with skilled labor.



TABLE IV.  
AVERAGE BUDGETS OF GROUPS COMPOSED OF FIVE PUDDLERS EACH.  
BAR IRON.

NATIONALITIES.	YEARLY INCOME OF FAMILY.				ANNUAL FAMILY EXPENDITURE.												SURPLUS.								
	Earnings of Husband.		Earnings of Children.		Other Receipts.		Rent.		Food.		Books and Newspapers.		Alcoholic Drinks.		Tobacco.				Other Expenses.	Total Expenses.					
	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.			Amount.	Proportion.			
Average of five American Puddlers	\$845 95	91.4	\$80 00	8.6	.....	.....	\$925 95	13.1	\$98 40	13.1	\$282.14	37.6	\$11 00	1.5	\$14 00	1.9	\$16 75	2.2	\$327 63	43.4	\$749 94	19.0	\$176 01	9.9	
Average of five English Puddlers...	423 48	87.9	58 40	12.1	.....	.....	481 88	13.6	58 91	13.6	224.31	51.7	3 23	0.8	*5 84	1.3	6 23	1.4	135 61	43.4	434 18	9.9	47 70	9.9	
Average of five French Puddlers...	376 04	93.2	13 90	3.5	\$13 51	3.3	403 45	7.7	26 63	7.7	154 04	44.5	1 90	0.5	59 83	17.3	4 44	1.3	99 11	34.5	345 95	14.2	57 50	14.2	
Average of five German Puddlers..	250 61	90.0	27 98	10.0	.....	.....	278 59	7.6	20 93	7.6	131 08	47.6	1 40	0.5	13 97	5.1	2 90	1.1	105 29	275 57	275 57	3 02	1.1	3 02	1.1
Average of five Belgian Puddlers..	308 53	82.9	63 69	17.1	.....	.....	372 22	9.4	34 77	9.4	190 92	51.9	93 <sup>1</sup>	0.3	16 98	4.6	3 02	0.8	121 39	368 01	368 01	4 21	1.1	4 21	1.1

\* Two of these Puddlers are total abstainers.

TABLE V.  
STEEL MANUFACTURING.  
FAMILY BUDGETS.

COUNTRY.	Families.				Dwellings.				YEARLY INCOME OF FAMILY.				ANNUAL FAMILY EXPENDITURE.												SURPLUS.	
	Total Number.	Size of Family.	Families own- ing House.	Size of House.	Earnings of Husband.	Other Income.	Total Income.	Rent.	Food.	Clothing.	Books and News- papers.	Alcoholic Drinks.	Tobacco.	Other Expenses.	Total Expenditure.	Amount.	Proportion.									
United States.	183	4.7	28	4.6	\$678 52 87.2	\$85 04 12.8	\$663 56	\$80 44 15.3	\$254 18 45 1	\$110 09 19.5	\$6 66 1.2	\$26 55 4.7	\$10 48 1.9	\$69 10	\$563 50	\$100 06 15.1										
Great Britain.	106	5.3	10	4.2	487 34 82.7	101 79 17.3	589 13	48 31 9.1	274 00 51.6	96 72 18.2	6 04 1.1	33 84 6.4	13 20 2.5	58 71	530 82	58 31 9.9										
Germany.....	35	4.8	....	2.0	232 04 92.7	18 09 7.3	250 13	9 70 3.4	128 29 50.9	47 78 18.9	1 93 0.8	10 44 4.1	4 28 1.7	49 77	252 19	.....	.....									

The proportion of skilled labor in the total from whom the above budgets were obtained is almost uniform in the three countries, viz., 40 per cent. in the United States and Great Britain and 43 per cent. in Germany.

Having considered the social-economic position of workers in the coal, iron and steel industries in several countries, let us now by proper combination ascertain the average conditions prevailing on the two continents. Table VI is an attempt to do this.

Broadly speaking, coal-mining presents the smallest and the manufacture of iron the greatest contrasts. Added to this table is one interesting element, viz., the proportion of families who subscribed to newspapers and bought books, and who drank liquor or smoked tobacco. For books and newspapers the proportion in America except for workers in coal mines is uniformly the highest, but as regards the use of liquor the lowest, save in the case of blast-furnace employés. A smaller number of families in Europe used tobacco.

Forsaking for the moment the rôle of the statistician, and taking up that of the social philosopher, let us examine closely how nearly in these returns a moderately conceived social standard has been complied with. The fundamental condition of such a standard is that the earnings of the husband alone should be sufficient to support the family. The wife ought never to be called away from the household if she have children. The desertion by mothers of the home for the factory is, I am convinced, a fundamental factor in modern social discontent. How can the needs of the husband be met and a proper moral instruction be given to the children under such circumstances? The public school can educate intellectually, but only indirectly morally. In the home the character is formed, in the home the citizen is made, and there can be no proper homes whence mothers have been withdrawn. One may well wonder what this wholesale employment of women in industry will lead to in the course of a generation or so. It is difficult to see



how young girls who never had any domestic training, and early went to work in factories, are going to make *either acceptable housewives or good mothers*. It is not very reassuring to note that in the United States alone, and there only in two cases, viz., bar-iron and steel manufacture, was it possible for the husband unaided to support his family. In these instances, too, the margins are so small as to cause one to refrain from congratulation. If we further inquire how often the husband actually did support his family without help, we find the highest proportion in any industry to be 69 per cent.

Any one who has had an opportunity to learn the real life of European laborers understands how much more thoroughly is there developed the sentiment of family solidarity. The children remain longer with their parents than in America and contribute more to the general support. *Not only are the absolute earnings of the husband smaller in Europe than in America, but the percentage of his contribution to the total income is also less.* A failure to realize this fact is at the bottom of much misconception in the United States regarding the true condition of the European laborer. The family, not the individual, is the unit of society. Hence it is quite false to say, as political "pauper labor" conjurors are so fond of doing, that low wages to the husband must necessarily mean a correspondingly low standard of life to the family. The otherwise certain consequences of low earnings are in practice largely mitigated by the relatively higher economic contributions from other members of the family. While such a practice involves a regrettable loss of social opportunities, it permits the maintenance of the family on a higher plane than would first appear to those who judge merely from current rates of wages and take no account of national customs.

The figures before us thoroughly justify the point of view I have been endeavoring to present. The average annual wages of workers in coal mines were 18 per cent. higher in America than in Europe, but the total earnings



of the family were but 13 per cent. more. So for the manufacture of pig-iron, bar-iron and steel the respective figures are 46 per cent. for the husband and 33 per cent. for the family, 107 per cent. for the husband and 77 per cent. for the family, 31 per cent. for the husband and 25 per cent. for the family higher in the New World. Such are the average conditions prevailing in Europe and America, but if we seek for the facts in relation to each separate industry under consideration we find the practice to be everywhere the same. For coal-workers the variations in earnings are for the individual 13 per cent. and for the family 11 per cent. more in the United States than in Great Britain, 41 per cent. more for the individual and but 29 per cent. more for the family than in Belgium, 66 per cent. more for the individual and 46 per cent. more for the family than in Germany. The manufacture of iron presents even more striking contrasts. The American individual workman gains 59 per cent. and his family 51 per cent. more than the British, 111 per cent. and 69 per cent. respectively greater than the French, 227 per cent. and 118 per cent. respectively more than the Belgian and 186 per cent. and 178 per cent. respectively higher than the German. The steel industry, so far as the returns we are considering go, presents the only exception to what I believe is a universal law. But this is unimportant, and easily accounted for by the *caveat* I have previously interposed as to the not quite representative conditions prevailing in the locality whence the statistics for German steel-workers were derived. The individual workman in America is, economically speaking, 19 per cent. better off while his family is 13 per cent. better off than in Great Britain; the individual 149 per cent. and the family 165 per cent. better off than in Germany.

From a comparative point of view the facts we have just been considering are of very great interest. But in their social aspect they represent at best a negative virtue. The greater collective effort which it is necessary to put forth in Europe to secure a good standard of life must be at the

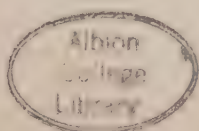
expense, always intellectual, often physical, and sometimes also moral, of one or more of the individuals. Perhaps it is a rude awakening to many to learn that the true economic basis of a proper social existence is so generally wanting. Only in the United States, and there but for two of the six great divisions of coal-mining and iron and steel manufacturing, does it obtain. Let there be no mistake about this matter. I do not maintain that there are no families within these industries which are not kept solely by the economic efforts of the husband. To be sure, there are thousands of such, and they may be found in all countries. The lesson to be learned from the figures is that when all occupations, skilled and unskilled, are grouped together within each specific industry, the average conditions fall far short of the ideal.

A second element in a just social standard for an industrial laborer is food. We see from the double column wherein the figures are portrayed that in practically every instance the largest absolute but the smallest relative sum falls to the American. Does this mean that the family of the workingman in America is better nourished than abroad? I believe it does, and principally for two reasons. The family in the United States is smaller, and therefore with the largest sum of money spent the amount *per capita* is considerably greater. But does higher expenditure mean more food? We may answer affirmatively, because a greater quantity of the principal articles in a workingman's menu can be had for an equal amount of money in the New World. The Department was careful to collect information concerning the price of food concurrently with the budgets. From data furnished by the wives of workingmen, which authority should be accepted as indisputable, we are able to make a statement of comparative prices.

The price of bread does not show much difference except in France and Germany. But the kind and quality of flour used is by no means the same, so that to obtain an equal amount of nourishment a much larger sum must be

spent in the Continental countries than in Great Britain and the United States. The average prices of the meats which find their way to the workman's table, without reference to kind, figure out 23 per cent. more in Germany, 47 per cent. more in Belgium, 50 per cent. more in Great Britain and 52 per cent. more in France than in the United States. Potatoes cost 3 per cent. more in Great Britain, 19 per cent. more in France than in the United States, but 30 per cent. and 50 per cent. respectively less in Belgium and Germany. Butter is 4 per cent. dearer in Great Britain, 9 per cent. dearer in Belgium, 22 per cent. dearer in Germany and 35 per cent. dearer in France than in the United States. Sugar in England is only half the price it was in the United States before 1890, but the same article is 19 per cent. more in Germany, 51 per cent. more in Belgium and 84 per cent. more in France. Coffee costs 13 per cent. more in Belgium, 19 per cent. more in Germany, 40 per cent. more in Great Britain and 67 per cent. more in France than in the United States. Lard and eggs form no exception to the general rule. It is impossible to escape the conclusion that with the prevailing prices of provisions so preponderatingly in favor of the American laborer, and seeing that his family is smaller, his larger absolute expenditure means unquestionably that he and his kind are better nourished. The encouraging part of it all is that the family is able thus to maintain itself at a smaller relative sacrifice. I am glad to say that my own experience accords perfectly with this statistical demonstration.

Right here I cannot refrain from adding further testimony as the result of personal observation. The statement so often circulated in America that meat is the rarest of luxuries to the European industrial laborer is an absurd falsehood. The casual worker has, we all know, a hard enough time of it everywhere, but it is not from his exigencies that we must fix a general standard. I am very sure that the American nourishes himself and his family better, at a smaller relative cost than any European. But



I am no less positive that those who suppose industrial laborers abroad to subsist generally on pauper's fare are most thoroughly mistaken.

The columns in which expenditure for alcoholic drinks are exposed present facts for serious reflection. National pride will no doubt be flattered to learn that American families spend the smallest sums for this purpose. Not only so, but there must also be a smaller *per capita* consumption, since the prices of alcoholic drinks are higher in the New World. Still this is only a partial satisfaction. If we conceive that the American spends too much, the European, to whom the struggle for existence is keener, wastes more. It is a matter of grave public concern to learn that every year in that part of the labor world where the hardest workers are found, *the publican receives three-fifths as much as the landlord*. In France and Belgium, I am sorry to say, the quota is higher still.

I have noticed in the course of personal investigations a curious relation between expenditures for rent and alcoholic drinks. The economies which are necessary to indulge the appetite for spirits are almost invariably practised on the house accommodation. The figures in all the tables presented generally corroborate this point of view. Who does not wish that the European laborer would flee the gin-cup, and with the resulting savings *add two more rooms* to his home, as he could then do?

No doubt I should be held guilty by a certain class of economists if I passed by in silence the columns which show the comparative family surplus. Without depreciating in the least the virtue of saving, one cannot but feel that it has been elevated into an importance far beyond its due. Not only is it inapplicable to all conditions, but when offered as a panacea for every social ill it is very apt to nauseate. How can a workingman, with a large family and restricted income, the creature of commercial vicissitudes and fluctuations of trade, create a fund large enough upon which to draw in times of emergency? We have seen

that in the average instance he cannot alone give support. So if a surplus is to be built up it must be at the expense of some of the children. The savings shown in the various tables are quite respectable. Provided they could go on growing from year to year, they would constitute an ample insurance fund against want. But experience shows that periods of strikes, shut-downs, illness or misfortune soon dissipate the little pile.

We must never consider wages apart from thrift and a standard of living. Where economic gains are small, savings mean a relatively low plane of social existence. A parsimonious people are never progressive, neither are they, as a rule, industrially efficient. It is the man with many wants—not luxurious fancies, but real legitimate wants—who works hard to satisfy his aspirations, and he it is who is worth hiring. Let economists still teach the utility, even the necessity, of saving, but let the sociologist as firmly insist that so far to practise economy as to prevent in this 19th century a corresponding advance in civilization of the working with the other classes is morally inequitable, and industrially bad policy. I am not sorry that the American does not save more. Neither am I sure but that if many working-class communities I have visited on the Continent were socially more ambitious there would not be less danger from radical theories. One of the most intelligent manufacturers I ever met told me a few years ago he would be only too glad to pay higher wages to his work-people provided they would spend the excess legitimately and not hoard it. He knew that in the end he should gain thereby, since the ministering to new wants only begets others. He had tried over and over again to induce the best of his weavers to take three looms instead of two as in their fathers' time, but without success. A few years later I met this same gentleman again. In the meantime the foreman of the weaving department had died and a new one been appointed on the express condition that he would gradually insist on three looms per weaver in every case where possible. The result did not belie my



friend's expectations. Both he and his work-people had profited by the change.

So far we have dealt with families as one finds them without reference to the number or ages of the children or any dependent members. Let us now seek a more scientific unit of comparison. We can do this by establishing what the Commissioner of Labor has been pleased to call the "normal family." Disregarding those with more than five children or with children older than fifteen years, or having dependent or other persons in the house, we get a number of similar units rather than groups of individuals. Table VII presents the salient facts for this class of families, and in its almost unvarying uniformity with the preceding tables gives striking confirmation to the accuracy of their results.

TABLE VII.

## NORMAL FAMILIES.

## RECAPITULATION OF FAMILY BUDGETS BY INDUSTRIES.

COUNTRY AND INDUSTRY.	FAM- ILIES.		ANNUAL EXPENDITURE.										SURPLUS.	
	Number.	Size of Family.	Total Annual Income.	Rent.		Food.		Clothing.		Other Expenses.	Total Annual Expenditure.	Amount.	Per Cent.	
				Amount.	Per Cent.	Amount.	Per Cent.	Amount.	Per Cent.					
1. <i>Coal Mining</i>														
United States	153 4		\$446 10	\$54 42	12.5	\$181 04	41.7	\$76 24	17.5	\$122 67	\$434 37	\$11 73	2.6	
Europe.....	85 4.7		381 56	43 89	12.1	190 11	52.5	49 11	13.5	79 01	362 12	19 44	5.1	
2. <i>Pig Iron.</i>														
United States	291 4		513 79	63 91	13.0	202 47	41.8	86 80	17.7	135 52	490 70	23 09	4.5	
Europe.....	49 4.2		382 49	37 39	10.1	184 53	49.7	64 45	17.4	84 64	371 01	11 48	3.0	
3. <i>Bar Iron.</i>														
United States	286 3.8		625 28	96 72	16.9	238 11	41.6	83 96	14.6	153 55	572 34	52 94	8.5	
Europe.....	111 4.2		370 72	41 57	11.5	167 11	46.2	63 07	17.4	49 68	361 43	9 29	2.5	
4. <i>Steel Manu- facture.</i>														
United States	85 4		555 50	80 05	16.3	219 87	44.7	75 06	15.3	110 74	491 72	63 78	11.5	
Europe.....	82 4.4		475 20	45 64	10.2	234 91	52.6	72 03	15.7	93 52	446 30	28 92	6.1	

The normal family is composed of the two parents and from one to five children less than 14 years old.

Hitherto we have been considering standards of living for coal, iron and steel workers in different countries. To a certain extent nationality has also been involved. The figures for the United States do not refer to Americans alone, since, as every one knows, a large proportion of the laborers are immigrants from the Old World. It is quite fair, I think, to call the standard of life practised in the United States the American, since the native-born workman created it, and fixed the price of his labor at a point where he could live up to it. But we must not for a moment suppose that he alone now-a-days maintains it. In this he is equaled and sometimes surpassed by the best class of immigrants who find work in mining and metallurgy, viz., the British and Germans. Other nationalities have not as yet come up to the mark. Table VIII, which contains the necessary details to verify the above remarks, is, to my mind, the most interesting of all.

There are facts herein presented which furnish a severe blow to Chauvinism. The average workman in the allied industries of American birth earns less than the Briton or the German, though he is ahead of other nationalities. In the relative size of his contribution to the family support, he only gives place to the German, whose habits in this respect have undergone a marked change since his transplanting in the New World. The proportion of cases in which the husband actually supported the family are fewer, the total earnings of the family are less, the house accommodation is slightly inferior, a smaller *per capita* expenditure appears for food and clothing for the native American than for the Americanized Briton and German. In other words, in all important respects, except the consumption of alcoholic drinks, these latter seem to be living on a higher level. As regards the other nationalities, the American conserves his leadership, though the expatriated Frenchman is not far behind.

This revelation will surprise many, yet if the statistics before us mean anything at all they teach the lessons we

TABLE VIII.

## GENERAL TABLE OF FAMILY BUDGETS FOR THE COAL, IRON AND STEEL INDUSTRIES, CLASSIFIED BY NATIONALITIES.

NATIONALITIES.	Families.			Dwellings.			YEARLY INCOME OF FAMILY.			ANNUAL FAMILY EXPENDITURE.												SURPLUS.							
	Total Number.	Average Number of Persons in Family	Owning their Homes.	Families entirely maintained by Husband.		Giving Information concerning size of Dwelling.	Average Number of Rooms per Family.	Total Earnings of Family.	Earnings of Husband.	Proportion of Earnings of Husband to Total Earnings.	Rent.		Food.		Clothing.				Books and Newspapers.				Alcoholic Drinks.		Tobacco.		Total Expenditure.	Amount.	Proportion.
				Number.	Proportion.						Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.			
Americans.....	1294	4.8	236	959	3.9	834	63.7	\$583 68	\$320 43	89.2	\$71 43	13.7	\$220 57	42.2	\$8 20	20.3	78.8	\$5 90	1.1	50.7	\$14 96	2.9	83.8	\$12 12	2.3	\$532 29	\$61 89	10.5	
British in Gt. Britain*.....	575	5.1	11	495	4.0	270	51.4	522 08	423 79	81.2	47 61	9.9	216 43	51.33	5 15	1.07	63.2	24 43	5.09	65.3	22 80	3.6	84.0	10 35	1.7	480 07	42 01	8.1	
"    in United States.....	793	5.4	178	560	4.6	546	68.6	632 01	555 74	80.4	79 37	12.7	283 30	45.15	6 90	1.1	53.3	22 80	3.6	84.0	10 35	1.7	627 53	64 08	9.3				
French in France.....	22	5.0	...	...	...	472	18	432 18	307 75	71.2	29 65	7.8	199 09	52.4	1 91	0.7	100.	49 77	13.09	90.9	4 82	1.3	380 16	52 02	12.0				
"    in United States.....	24	4.8	5	19	3.7	16	66.6	533 52	403 77	75.3	63 89	12.9	232 07	46.7	4 53	0.9	66.7	29 52	6.0	91.9	8 28	1.7	436 93	66 89	11.7				
Germans in Germany.....	66	6.8	13	52	2.8	27	40.9	515 03	253 51	81.8	30 60	8.6	171 64	49.9	2 70	0.8	98.9	11 30	3.8	89.3	4 15	1.2	314 11	92	0.3				
"    in United States.....	276	5.0	106	158	4.0	202	73.2	635 30	563 57	89.7	83 31	15.4	246 62	45.3	5 76	1.06	60.1	23 24	4.3	84.8	9 24	1.7	542 52	92 73	14.6				
Belgians in Belgium.....	118	5.7	7	82	3.6	44	37.3	389 26	211 06	62.0	32 46	8.8	175 65	47.6	85 13	23.1	56.4	2 96	0.8	70.3	24 49	6.1	88.9	5 75	1.6	369 28	19 98	5.1	
Other nationalities in United States.....	83	5.2	15	60	3.6	41	49.4	513 79	451 71	87.9	65 18	14.8	204 03	46.5	4 82	1.1	74.7	33 76	7.7	89.2	6 37	1.5	459 81	74 48	14.5				
Average in Europe.....	770	5.3	31	608	2.7	374	48.6	470 96	383 30	78.2	41 76	9.5	222 52	50.8	4 65	1.06	69.7	23 17	5.3	72.5	9 47	2.2	437 83	33 12	7.0				
"    in United States.....	2430	5.0	540	1782	4.1	1581	62.3	622 14	514 53	86.0	74 58	13.7	243 65	48.8	6 21	1.1	53.4	19 60	3.2	54.3	10 98	1.9	555 81	66 33	10.6				

\* The English, Scotch, Welsh and Irish are here included.

NOTE.—"Other Expenses," though not set forth in a special column, are included in the total.

have outlined. In analyzing them closely one can only find two factors which may have had an influence in determining the result. The first is that amongst the budgets included in the returns, those for the laborers employed in making merchant iron and steel, where the highest wages are paid, present a slight proportion in favor of workmen of foreign birth, viz., 422 to 384. This is so little that we may neglect it. More important is the second, which shows that the proportion of budgets drawn from the Southern States, where social-economic conditions are probably not quite so favorable, is much larger for native than for foreign-born workingmen, or 403 to 46. One can hardly say that the foreigners having outnumbered the natives in the States of New York, Pennsylvania, Ohio and Illinois, where the highest wages are generally supposed to be paid, in the ratio of 1135 to 802, matters much, because a portion of the majority is composed of Bohemians, Hungarians, Italians and Poles, whose earnings and expenses fall far short of the American's. Personally it does not seem to me that there is sufficient in all of the disturbing factors to cast doubt upon the substantially representative character of the figures. Neither do I see any ground for regret. May not a well-to-do citizen generously applaud the enhanced prosperity of his neighbor?

But there is one consideration which we must not overlook. The American may not always equal the naturalized European in physical power, but he greatly surpasses him in nerve force. Consequently we most often find him following those occupations where ingenuity, finesse and skill count for more than the exercise of patience or strength. It is a fact of common experience in the United States that, in a machine-shop, for example, three-fourths of the fitters will be foreign-born, while amongst the machinists seventy-five per cent. will be native Americans. We must beware, therefore, of hasty conclusions to the effect that in all branches of manufacture the native is being distanced by the alien.

The juxtaposition of figures portraying the social-

economic status of workmen of different nationalities in the country of their birth and the land of their adoption furnishes lessons of even higher interest. From this we are able to learn the social effect of economic betterment. The Briton, already accustomed to a fair standard of life, now exerts his energies anew and earns nearly one-third more than in his native isle. In fewer instances has he called upon his family to assist him. Much more often does he become the owner of his dwelling, which also has improved in character. With a slightly larger family, the *per capita* expenditure for food has considerably increased, leaving no doubt as to better nourishment. It does not appear that quite the same proportion read books and newspapers or drink liquor as before. In the latter respect a notable reform takes place, the relative expenditure declining from 5 per cent. to  $3\frac{1}{2}$  per cent. Savings, as one would naturally expect, also increase.

One curious fact we may note in passing. Under the caption Briton are included English, Scotch, Welsh and Irish. Looking at each division of the same folk separately in their own country, they rank in point of earnings and standard of life first the Scotch, secondly the English, thirdly the Welsh, fourthly the Irish. In America the order is changed: the Scotchman retains the supremacy, but next comes the Irishman, then the Welshman, and finally the Englishman.

The number of returns from Frenchmen, it must be acknowledged, are not sufficient upon which to base hard and fast conclusions. To anticipate a general criticism which may be offered as to the relatively small number of families in comparison with the whole working population, let me say that one must bear in mind two things: In the first place, the industries of which we are writing are not found in many different parts of the same country in Europe. Secondly, it does not need many budgets from the same neighborhood to typify the average standard of living in that locality. The validity of conclusions does not in this case repose so much upon numbers as in many other branches of social inquiry.



It is not very probable that the Frenchman forms an exception to the general rule. The earnings of the husband increase one-half and of the whole family nearly a third. Not half as many fathers sought the assistance of their children as before. Dwellings of a higher class, better nourishment, improved intellectual conditions and far greater sobriety are equally evident. Finally, the Frenchman in the New World thinks less of saving than of self-improvement.

Too few Belgians were found in America to make a reliable comparison of their manner of living in the two continents. Most probably they have done pretty much as their neighbors, the French and the Germans.

A veritable revolution has been wrought in the habits of the German. In a higher degree than any other he becomes the proprietor of his abode. The dwelling itself is doubly as good as it was. Three-fourths of the fathers entirely support their families, and their quota has now been raised to nine-tenths of the total revenue. The fathers earn 125 per cent. and the whole family 84 per cent. more than in the Old World. Rent and clothing, as in the case of the Frenchman and the Briton, are had on less advantageous terms, exceptions which have already engaged our attention. Judging from the figures alone, the nourishment should be over 50 per cent. more than before. More read, but fewer drink and smoke, though the sums of money spent have increased absolutely as well as in proportion. The German, too, seems to utilize his opportunities for saving better than any other nationality, putting aside annually a respectable share of his income.

"Other nationalities," in Table VIII, include a very few Austrians, Belgians, Scandinavians and Swiss (29 in all), but principally Italians, Hungarians, Bohemians and Poles. Comparison of their budgets of incomes and expenses, with those of the Americans, British, French and Germans, shows them to be living on a lower level. Collectively in all crucial tests they do not measure up to the standard. More than half of them receive help from their children or wives to maintain the family. The house is very much

inferior, the *per capita* outlay for food and clothing considerably less, while that for liquor is appreciably greater. Only about one-half spend anything for books and newspapers. The large proportion of wages saved suggests that as yet economy is more highly esteemed than social betterment. Still no one can deny that there has been a vast improvement in comparison with their previous condition of life.

With no other showing should Americans be so well pleased as with the last. The immigration problem centers around this group of nationalities. The industrial Briton has, broadly speaking, been reared under wholesome social conditions. Few Frenchmen come to the United States at all. The German is the quickest of all to adopt American ways. The Scandinavians go most largely to the West to engage in agriculture. The Hungarians, Italians, Bohemians and Poles, who throng our gates, give most concern. Experience has shown that, left to herd together in large cities, they are slow to change their ways. It is therefore with no ordinary satisfaction we note that, drafted off into industry, their advance is much more rapid. Up to the present there seems no ground to fear that such newcomers have wielded a depressing influence. There seems rather reason for congratulation in the fact that instead of their having lowered the American standard of living, the American standard of life has been raising them.

Having bestowed so much attention upon the social results of the inquiry, a briefer space must be allotted to its economic aspects. Speaking generally of these, we may say that the cost of production of a similar unit of pig-iron, merchant iron or steel, is greater in the United States than in the principal foreign countries, that rates of wages are also higher, but that *the labor cost of manufacture is not correspondingly more.*

The production of pig-iron offers an apparent exception to the last statement. Table IX, wherein are contained the average figures for 15 American, 4 English and 2 Belgian Bessemer blast-furnaces, shows a maintenance of the

proportions between average daily wages and labor cost of manufacture. The exception is easily explained by the fact that in this industry day wages, not piece wages, prevail. Familiarity with labor conditions on the two continents teaches that a minimum daily wage is always much higher in America than elsewhere. One may fix the scale at one dollar and twenty-five cents in the United States, to three shillings and sixpence (\$0.87) in England, three francs (\$0.60) in France, two and a half francs (\$0.50) in Belgium, and two marks (\$0.50) in Germany. But whenever *quantity* instead of *time* is the unit of payment, the proportion in favor of the New World is not nearly so marked. The manufacture of pig-iron is also an industry where mechanical contrivances cannot be utilized to displace whatever highly paid labor exists and therefore reduce labor cost, in the same way as in the production of merchant iron and steel.

TABLE IX.

## BESSEMER PIG IRON.

RELATION BETWEEN THE EARNINGS OF WORKMEN, THE  
LABOR COST AND THE TOTAL COST OF PRODUCTION.

(Unit, One Ton of 2240 Lbs.)

COUNTRY.	DAILY EARNINGS OF.				COST OF PRODUCT'N—ONE TON.						TOTAL COST OF PRO- DUCTION.
	Foreman.	Keeper.	Filler.	Average daily wages for the establishment.	Labor.		Materials.		General Expenses.		
					Amount.	Per Cent of Total Cost.	Amount.	Per Cent of Total Cost.	Amount.	Per Cent of Total Cost.	
United States...	\$2 59	\$2 04	\$1 35	\$1 52	\$1 39	9.04	\$13 25	86.21	\$0 73	4.75	\$15 37
Great Britain...	1 58	1 21	94	73	67	6.48	9 18	88.87	48	4.65	10 33
Belgium.....	1 13	1 24	71	65	47	4.35	9 91	91.67	43	3.98	10 81

These figures are an average of 15 American, 4 English and 2 Belgian establishments.

For the purpose of comparing wages with labor cost, and the latter to the total cost of production, I have combined in Table X the figures from four important establishments, making the same product and operating under conditions as similar as possible.

TABLE X.

## BAR IRON MANUFACTURE.

RELATION BETWEEN THE EARNINGS OF WORKMEN, THE  
LABOR COST AND THE TOTAL COST OF PRODUCTION.

(Unit, One Ton of 2240 Lbs.)

COUNTRY.	DAILY EARNINGS OF			LABOR COST.		TOTAL COST OF PRODUCTION.
	Heater.	Roller.	Average Daily Wage for the Establishment.	Amount.	Per Cent. of Total Cost.	
United States .....	\$5 05	\$4 29	\$2 44	\$3 43	10.57	\$32 44
Great Britain.....	2 05	2 36	1 25	3 03	12.44	24 35
France.....	1 67	1 78	83	3 38	14.67	23 04
Belgium .....	1 68	1 30	64	2 10	8.70	24 13

The wages of such skilled workmen as heaters and rollers are twice as great as in Great Britain, and nearly threefold higher than in France and Belgium. The average wage to all classes of laborers in the establishments is also twice as great as in Great Britain, three times as high as in France, and four times larger than in Belgium. Compare these figures with the labor cost of a similar unit of manufacture and we find quite different proportions. It is only a trifle more than in France, where daily wages are about one-third as high, one-eighth dearer than in Great Britain, with wages only half as large, and fifty-four per cent. greater than in Belgium, where wages are down to one-fourth.

In the manufacture of steel rails the same general law is evident. With the average wage of the establishment 40 per cent. greater than in England, the labor cost is only 10 per cent. more. In comparison with the continent of Europe, wages are 90 per cent. and labor cost but 50 per cent. higher.

TABLE XI.

## MANUFACTURE OF STEEL RAILS.

RELATION BETWEEN THE EARNINGS OF WORKMEN, THE LABOR COST AND THE TOTAL COST OF PRODUCTION.

(Unit, One Ton of 2240 Lbs.)

COUNTRY.	DAILY EARNINGS OF			COST OF PRODUCTION PER TON.								TOTAL COST OF PRODUCTION PER TON.
	Heater.	Roller.	Average Daily Wage for the Establishment.	Labor.		Materials.		Fuel.		General Expenses.		
				Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	Amount.	Proportion.	
United States.	\$4 50	\$5 25	\$2 06	\$1 54	6.21	\$21 11	85.12	\$0 70	2.82	\$1 45	5.85	\$24 80
Great Britain.	2 66	3 05	1 45	1 37	7.36	16 40	88.20	45	2.42	37	2.02	18 59
Continent of Europe.	1 45	1 55	1 08	1 04	5.33	17 67	90.27	40	2.06	46	2.34	19 57

NOTES.—These figures are taken directly from the books of three large establishments, well equipped and operating under the best conditions.

The terminal dates of the periods to which these figures relate are as follows:

United States, 15 to 27 July, 1889.

Great Britain, April 1 to September 29, 1888.

Continent of Europe, January 13 to April 6, 1889.

The rails manufactured have nearly the same weight per yard.

We must also note that for bar-iron the proportion of the labor cost to the total cost is less in the United States than in Great Britain and France, and for steel rails less than in England.

What inferences are we to draw from the foregoing statistics? Unmistakably this, that higher daily wages in America do not mean a correspondingly enhanced labor



cost to the manufacturer. But why so? Some say because of the more perfect mechanical agencies put into the hands of the workmen in American rolling-mills. There is reason in this answer if we take the average conditions, but it does not represent the whole truth. Moreover, it cannot be used in a comparison between England and the United States, since in the former country mechanical processes have been perfected almost to the same degree as in the latter. Particularly will the explanation fail in the present case, since the three establishments chosen are nearly alike in equipment and occupy a very high rank in their respective countries. If applicable to steel-making, it should equally hold true of bar-iron, but statistics give it here even less probability.

The real explanation I believe to be that greater physical force, as the result of better nourishment, in combination with superior intelligence and skill, make the workingman in the United States more efficient. His determination to maintain a high standard of life causes him to put forth greater effort, and this reacts to the benefit of the employer as well as to his own. We should give the principal credit of the higher wages in America neither to the manufacturer, the tariff, nor any other agency, but the workingman himself, who will not labor for less than will enable him to live on a high social plane. That he can carry out his policy with but little disadvantage to his employer in economic competition teaches a lesson of far-reaching importance. Instead of a Ricardian régime, where the wages of labor become barely sufficient to permit a sustentation of effort and a reproduction of kind, it looks as if ere long the world's industrial supremacy would pass to those who earn the most and live the best.

II

THE WORLD'S REPRESENTATIVE  
ASSEMBLIES OF TO-DAY



JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History.—*Freeman*

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ELEVENTH SERIES

II

THE WORLD'S REPRESENTATIVE  
ASSEMBLIES OF TO-DAY

A STUDY IN COMPARATIVE LEGISLATION

By EDMUND K. ALDEN

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## PREFACE.

A few words on the arrangement of the matter in the following monograph may not be irrelevant. The placing of the Table of Assemblies at the end is intended to facilitate reference. Such a table was also necessary to illustrate the preceding statements, as the prescribed limits precluded a seriatim treatment of the different legislative bodies. The same limitations of space have necessarily excluded much that would enhance the value and interest of such a table, as, for example, the minutiae of qualifications for electors and members.

The statements made are based in all cases on the latest available sources. As information on some topics has been tendered to me personally, I take this opportunity of expressing my thanks to those who have in this way contributed to the work.

EDMUND K. ALDEN.

PACKER COLLEGIATE INSTITUTE,  
BROOKLYN, N. Y., *January 3, 1893.*



## SYNOPSIS.

LIMITS OF THE SUBJECT.—GENERAL DIVISION INTO CONGRESSES AND PARLIAMENTS.—NOMENCLATURE.

COMMENTS ON THE ELECTORATE :

Its Relation to the Population ; Direct and Indirect Election.

ON THE COMPOSITION OF THE HOUSES :

Unicameral and Bicameral Systems.

Qualifications of Members.

Size of the Chambers.

Relative Importance of the Houses.

Distribution of Members.

Apportionment.

Terms of Service.

Re-election.

ON THE POWERS OF LEGISLATIVE BODIES :

The Initiative in Legislation.

Relations to the Executive.

Constitutional Restrictions.

ON PROCEDURE :

Officers.

Rules.

Committees.

Various Forms.

ON PARLIAMENTARY MANNERS.

ON PERSONALITY OF MEMBERS.

ON LOCAL ASSEMBLIES.

ON THE REFERENDUM AND THE INITIATIVE.

RECAPITULATION.

TABLE OF THE LARGER REPRESENTATIVE ASSEMBLIES.



# THE WORLD'S REPRESENTATIVE ASSEMBLIES OF TO-DAY.

## A STUDY IN COMPARATIVE LEGISLATION.

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The great development of popular government has led to diversified and exhaustive studies on the subject. Historical literature has been enriched by countless manuals of politics and by treatises of profound learning on the theory and practice of ruling. But we look almost in vain for an *aperçu* or bird's-eye view of all the legislative bodies of the present. The plan of this monograph is foreshadowed in its title; it does not claim to trace the genesis and evolution of existing assemblies, nor—deeply interesting and informing as the task would be—can the labor of a detailed analysis and commentary on all modern legislatures fall within its scope. It seeks rather to set in array the principal phenomena of such assemblies, and from the data furnished to draw the more striking and essential lessons.

An accepted classification of legislatures is that of Congresses and Parliaments, whose fundamental distinction lies in the presence in a Parliament of an executive or ministry chosen wholly or mainly from its own numbers. The Old World is the home of the Parliament, as the New World is of the Congress. The Parliament is the older form, for, as Sir Henry Maine says, "The American Constitution is distinctively English," and again, "There is no doubt that the modern popular government of our day is of purely English origin."<sup>2</sup> The example of the British Parliament was followed by France, Spain, Portugal, and the Netherlands, in the great constitution-forming epoch after the fall

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<sup>1</sup> Maine, *Popular Government*, 11.

<sup>2</sup> *Ib.* 8.



of Napoleon, and more tardily by Italy, Germany, Austria-Hungary, and others; and it is the prevalent form in Great Britain's leading colonies. While she furnished the standard type for parliamentary government, her stalwart offspring supplied the model for Congresses.

The guiding principle is that the administration—the "government"—must be in sympathy, politically, with the popular house. This is the case both in lands with an aristocratic upper house, and in countries like France, where the political complexion of the Senate no longer affects the administration.<sup>1</sup>

Marked deviations from the English type occur. In France, for instance, ministerial responsibility is, to insular views, in a more embryonic stage; the successor of a defeated ministry frequently contains prominent members of its predecessor, and depends for support partly on the adherents of this ministry. The alignment of party groups in the Parliaments of the Continent, their combinations and readjustments, seem more erratic than political changes in the British bodies. So recent is the *régime* of the Reichstag in Germany that the significance of an adverse majority vote is ill defined. But there is a family resemblance discernible as we follow the proceedings of the European bodies, except in countries with a burlesque popular government.<sup>2</sup>

When we consider the United States Congress we are, in more senses than one, in another world. That authoritative writer on "Congressional Government," Prof. Woodrow Wilson, says: "The parliamentary debates are interesting, and ours are not. . . In the British House of Commons the functions of our Standing Committees are all concentrated in the hands of the Ministry. Every important discussion is an arraignment of the Ministry by the Oppo-

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<sup>1</sup> Burgess, *Political Science*, II., 26.

<sup>2</sup>The present rule in Bulgaria is happily characterized by F. Hopkinson Smith as a government of *opéra bouffe*.

sition. And every important vote is a party defeat and a party triumph."<sup>1</sup>

On the other hand we may set the opinion of an equally close observer: "I must not be understood as advocating the European plan as preferable for this country. The evils that inevitably flow from any fundamental change in the institutions of a country are apt to be much more serious than the evils which the change is intended to remove. Political government is like a plant; a little watering and pruning do very well for it, but the less its roots are fooled with the better. In the American system of government the independence of the executive department, with reference to the legislative, is fundamental, and on the whole it is eminently desirable."<sup>2</sup>

The nomenclature presents some interesting features. Congress is the name in the New World;<sup>3</sup> Senate is the word for the upper chamber, House of Representatives or Chamber of Representatives for the lower. In the separate States of the Union, Legislature or General Assembly is the usual term for the whole body; but the two old States of Massachusetts and New Hampshire still preserve the name of General Court, while a few Western States have a Legislative Assembly. The States unanimously call their upper house the Senate; the lower body is generally termed House of Representatives; but New York and a few Western States speak of their Assembly, New Jersey of the General Assembly, Maryland and the two Virginias of the House of Delegates.

Abroad, Parliament, or some word equivalent to Diet, is commonly used for the law-making body, and the native names of Storting, Cortes, Sobranje, Skupshtina, and Boulé, are also encountered. The Portuguese House of Peers, the Prussian, Austrian, and British House of Lords, the Hun-

<sup>1</sup> Wilson, *Congressional Government*, 94.

<sup>2</sup> Fiske, *Civil Government*, 169.

<sup>3</sup> But Parliament is used in Uruguay.

garian House of Magnates, proclaim their character; while for the lower house we find that Chamber of Deputies is a common form.

The larger British colonies naturally copy the example of the mother country, as the Cape, Victorian, or Canadian Parliament; but we find that Legislative Council is the almost universal name for the upper house in British colonial bodies; the nomenclature of their lower houses is varied.

In considering the important topic of the electorate of a country, we notice, first, the relation of this electorate to the whole population. Universal suffrage, it is needless to say, obtains in the United States, though Delaware still adheres to a tax qualification in State Senate elections. On the American continent universal suffrage, on the whole, prevails, but the exceptions are numerous. In Canada a property qualification exists. In Mexico the electorate comprises "all respectable male adults"—a somewhat elastic term. Costa Rica limits the suffrage to "those able to live respectably"—a rule that would, if strictly enforced, result, in many localities, in the establishment of a close oligarchy. Ecuador makes a religious test: Roman Catholic adults, able to read and write. Chili requires a property or income qualification. Brazil presents a novel feature, in that it disfranchises soldiers and members of certain monastic orders. The humor of a rather dry subject is furnished by Hayti, which enacts the requirement that her citizens should "have some vocation."

Since the Act of 1884, the British electorate is increased to include about one-sixth of the population (one-fourth to nine-fortieths being about the normal ratio). Some peculiar restrictions are observed in the colonial bodies. For example, in the Victorian Parliament, while the lower house is elected by general suffrage, the Legislative Council is chosen by electors with a property qualification; but clergymen, lawyers, medical practitioners, army and navy officers, and graduates of a British university are electors *per se*, so that a premium is placed on learning. The same respect to

education is shown in Tasmania; in general the Australian colonies are fond of a property or income qualification, and this is true of several other British possessions.

Those great bodies, the German Reichstag and French Chamber of Deputies, are chosen by general suffrage; but these cases are exceptional. The restrictions are many and diversified. For the Portuguese lower house the requirements are so comparatively insignificant that the electorate embraces one-fifth of the population; the stipulations in Italy limit the electorate for the lower house to one-tenth of the inhabitants, and attendance at the voting-urns in 1892<sup>1</sup> was fifty per cent. of the electorate; in the Netherlands the ratio is one-fifteenth; in Spain, Denmark, Norway, and Sweden, about one-seventeenth. In the several German States the electorate for the local Landtags is restricted in less than half the number (including, however, Bavaria). For relics of the feudal system we must go to Mecklenburg, where no body exists to represent the people at large. Neither the Austrian and Hungarian bodies, nor the Landtags of the crown lands, are chosen by general suffrage. Bulgaria and Greece—recent additions to the household of nations—allow manhood suffrage. Switzerland has general suffrage for its National Council, but the cantons differ considerably in electoral requirements regarding the cantonal legislatures. To relieve the tedium of these details, we may note an electoral provision in Montenegro, where half of the members of the nominal State Council are elected by citizens able to bear arms,—a provision which in that warlike little principality must include nearly everybody outside of cradles.

While property and income qualifications are the common forms of restriction, various others are found. Japan disfranchises priests; the Orange Free State draws the color line in its Volksraad; Italy favors learned men, as members of academies. Both Denmark and Norway exclude house-

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<sup>1</sup> *Nation*, Dec. 8, 1892.

hold servants. The free cities of Germany are quite aristocratic in their provisions, and favor the taxpayers and merchants. Hungary exempts certain professional and learned classes—chemists, engineers, etc.—from the small income or real estate qualification, and extends this exemption to an artisan having a single workman under him.<sup>1</sup>

Direct election is the preferred form, though there are some notable exceptions. These include Costa Rica, Peru, and some small German States; part of the Austrian Abgeordnetenhaus is chosen in this way, and so are, in part, the Austrian Landtags. Rumania, too, has electoral colleges. But perhaps the most noteworthy instance of indirect election is that for the Prussian Chamber of Deputies. The electors, in the first instance, are classed in three groups, favoring the highest payers of direct taxes, by an arrangement which somewhat reminds one of the old Roman centuries and classes.

The bicameral system has met the approval of most of the leading political writers,<sup>2</sup> and is realized in practice by the legislatures of the principal countries. Legislative bodies with a single chamber are common in cities, in departmental, provincial, and county councils. Many of the smaller American cities and some of the larger<sup>3</sup> have a council of one chamber. But every<sup>4</sup> American State legislature has two houses. The unicameral bodies fall into three or four main groups: the Parliaments of the minor States of south-eastern Europe, Servia, Bulgaria, and Greece; the Congresses of the States of Central America, Nicaragua excepted, compose another group; the Landtags of the Austrian crown lands are one-chambered, and so are nearly all the Diets of the minor German States, excepting those of the free cities.

<sup>1</sup> Victor Tissot, *Unknown Hungary*, I., 134.

<sup>2</sup> Bagehot is a notable exception.

<sup>3</sup> *E. g.*, New York, San Francisco, Brooklyn.

<sup>4</sup> Pennsylvania was formerly an exception.



A qualification of members is usually required, on the lines of age, as in the United States and generally, or of property, as is usually the case in Europe and the British possessions; or certain classes may be non-eligible: Brazil objects to clergy, ministers of state, and military officers in its lower house. The French Senate rules out generals and admirals in active service. Victoria bars out clergymen, and South Australia excludes both clergymen and judges. Italy also debars priests from its lower house. In the Portuguese Chamber, members, if they belong to the learned professions, are not subjected to the property qualification. Hungary has a provision suggestive of reflection. It declares non-eligible members of financial societies having relations with the State, and administrators of subsidized railroads.<sup>1</sup> The South African Republic (Transvaal), besides other qualifications, requires candidates for the Volksraad to be members of a Protestant church,—a stipulation which calls up to Americans a reminiscence of Puritan New England in colonial times.

In the composition of the two houses, wherever there is a difference, the divergence is striking. If an age limit is required, that for the upper house is considerably greater. If property qualification is the test, the member of the upper house is rated far higher. So it is with length of residence and with length of terms of service. Of the forty-four individual States of the American Union, only thirteen have equal terms for the two houses; the States frequently allot either four years for the Senate and two years for the lower house, or two years and one year respectively. Brazil, Sweden, and Hawaii, like the United States, give to the upper house thrice the term of service assigned to the lower.

A comparison of the relative size of the two houses is interesting. The upper is, with hardly an exception, the smaller. In some cases—notably in Europe—the disparity is not great. The House of Lords numbers 559 and the

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<sup>1</sup> Cf. V. Tissot, *Unknown Hungary*, II., 134.



Commons 670; the two chambers of the Spanish Cortes are nearly equal,—not far from 400. The upper body in the Swedish and Italian Parliaments is not greatly inferior to the lower in point of numbers; and the Hungarian House of Magnates actually counts a few more than the popular branch; while the new Japanese Parliament preserves almost a parity. But the ratio is generally large. In most of the American States the Senate is one-half to one-third the size of the popular body. In New York, Pennsylvania, and Georgia the ratio is 1 : 4, in Massachusetts 1 : 6, in Vermont 1 : 8, in Connecticut 1 : 12, in New Hampshire 1 : 15, and in Delaware 1 : 22. Delaware has the smallest legislative body of the States,—a Senate of 9.

On the question of size it would appear that when a certain point—perhaps about 250 or 300—is passed, the working qualities of the legislature are impaired. The American House of Representatives has steadily grown, and its present number, 356, seems to many too large for a business body. The old States of New Hampshire, Massachusetts, Connecticut, and Vermont show the largest houses, and all reach or surpass 240. The largest State, New York, has a Senate of only 32 and a lower house of only 128. Turning to the Old World, we find in the House of Commons the largest legislative body, 670; but the French Chamber is not far behind with 584 members. The lower houses of all the great European powers are equal or far superior in numbers to our House at Washington. It is to be noted that representative bodies of a temporary character are still more unwieldy. Thus the national conventions have double the membership of both houses of Congress together. The annual convention of the Massachusetts Republicans has over 1000 members. Bulgaria has a Great Sobranje, convened on extraordinary occasions, and this is just twice the size of the Sobranje proper, and there is a similar extraordinary assembly in Serbia.

As to the relative importance of the houses, the close hold which, in a democratic age, the lower house has on the

people, the constitutional lead which it so generally maintains in financial and revenue affairs give it an undoubted pre-eminence. In view of the great powers of the United States Senate in the matters of treaties and confirmations of appointments, one is tempted to consider it an exception to the rule. But it is the Chamber of Deputies whose proceedings we follow, not the French Senate; the Austrian Abgeordnetenhaus, not the Herrenhaus. The House of Lords concerns us little compared with its mighty confrère. Says Sir Henry Maine on this point: "We are drifting towards . . . a single Assembly; it will be a theoretically all-powerful Convention, governed by a practically all-powerful secret Committee of Public Safety."<sup>1</sup>

The United States Senate is by general consent<sup>2</sup> one of the most powerful organizations in the world. Besides the privilege of initiating any bills except those for revenue, and of amending, concurring in or rejecting the House bills, it confirms or vetoes many of the most important appointments by the President, such as the nominees to diplomatic and consular missions, judges (including those of the Supreme Court), various notable officers in the civil service; nominally, too, it confirms or rejects the members of the Cabinet, although this latter privilege is practically a dead letter, even when, as is often the case, the President and the Senate majority belong to antagonistic parties. In addition, the Senate's assent is necessary for the validity of all treaties. The "Upper House," by reason of its mode of election and smaller size, is less sensitive to changes of public opinion than the House of Representatives.

The principles involved in the terms *scrutin de liste* and congressman-at-large call for some comment. The French system of voting for the half-dozen deputies of a department on a "general ticket" has, after some fluctuations, since 1889 been supplanted by the district method of

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<sup>1</sup> Maine, *Popular Government*, 126.

<sup>2</sup> *E. g.*, cf. Maine, *Popular Government*, 226.

*scrutin d'arrondissement*. A few cases of *scrutin de liste* occur elsewhere. On the contrasting policies of choosing representatives at large or by districts, or rather of exacting or not exacting a residence in the district represented, we may quote Bryce. In an address at the Johns Hopkins Historical Seminary<sup>1</sup> he earnestly expressed the view—afterwards elaborated in his “American Commonwealth”—that the practice of restricting candidates to residents of the district is a cardinal error of the American system. It can readily be seen how this arrangement frequently keeps well-equipped lawmakers out of the Congress or Legislature. On the other hand, as the representative is supposed to serve primarily a district, and not the State or nation, it may well be urged that he should have that familiarity with the district’s needs which residence alone could give. So strong is the American prejudice on the matter that instances of non-residence in the district very rarely occur; when an outside candidate appears, the cry of “carpet-bagger” is likely to be raised, and with effect.<sup>2</sup>

Where, as in an upper house, members are chosen without regard to districts, some respect to geographical distribution is often shown. To refer again to an American example: if one United States Senator from a given State is identified through residence or interests with the northern or western part of that State, the other will be taken from the southern or eastern portion. This principle is indeed often violated, and has little hold in some States; but in Maryland one of the Senators is invariably chosen from the Eastern Shore,—a region which contains one-fifth of the population of that commonwealth.

An attempt to realize a just apportionment is now made in the British House of Commons. No borough with a population under 10,000 has a representative. Boroughs

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<sup>1</sup> 1883.

<sup>2</sup> *E. g.*, in the Sixth Massachusetts District, 1890 and 1892, Everett *vs.* Lodge.

of between 10,000 and 50,000 have one each; of between 50,000 and 165,000 two each. Boroughs of over 165,000 have one additional member for each 50,000 to 60,000.

The apportionment in France, in the Chamber of Deputies, is reasonably equitable, in the ratio of 1 : 70,000 inhabitants. In the German Reichstag it is very unequal: some members represent less than 12,000 inhabitants; others, over 160,000. No attempt at apportionment is made in the Landtags of the Austrian crown lands.

We may say in general that attempts to realize a fair apportionment for the lower chamber at least are in vogue, and the ratio of a member to the number of inhabitants is generally least in the least populous countries. Thus the United States shows the large ratio of 1 : 173,000; Italy, 1 : 57,000; France, 1 : 70,000; while Paraguay has 1 : 6000, and Uruguay 1 : 3000.

As the States of the American Union vary greatly in population, the disproportionate representation of the minor States—notable even at the adoption of the Constitution—has become excessive. In Nevada 21,000 persons are represented by a United States Senator; in New York nearly 3,000,000, a ratio of 1 : 140; these are the extremes. In Wyoming and Idaho a Senator's constituency is 30,000 to 40,000; in Pennsylvania, Ohio, and Illinois it is 2,000,000 to 3,000,000.

Each representative has a constituency of approximately 173,000 persons. This theoretical attempt at comparative equality of representation is in practice considerably modified; yet the distribution is fairer than that in the British House of Commons, in the lower houses of many Continental countries, and in the Assemblies of many of the individual States. Several causes combine to retard the approach to an ideal apportionment. Three States have a population far less than the standard of representation, yet each is entitled to a member. In others the arrangement into districts is unequal, or it becomes so through the unequal development of different sections. In some States,

for local reasons, nearly the whole electorate takes part in choosing a Congressman; in others perhaps one-half or less than one-half of the voters exercise their rights. Moreover, the system of gerrymandering often works unjustly, separating, for political purposes, regions contiguous and related in interests.

I quote a few cases of disproportionate representation in Congressional districts:<sup>1</sup> Population of the Second Californian District, 150,571; of the Sixth, 315,094. Connecticut showed in the Third District 121,792; in the Second, 248,582. Minnesota showed 171,271 in the First, and 414,635 in the Fourth. Coming nearer home, in New York the Sixth<sup>2</sup> District had 107,844, and the Thirteenth<sup>3</sup> had 312,404. The evil has no local home. The Third Pennsylvania District had 129,764, and the next, the Fourth, had 309,986.

The distribution of seats in State legislatures is frequently uneven. New York presents some instances of this; in Wisconsin, by a recent gerrymander (reversed, however, by the Supreme Court), while the basis of population for a member in the Assembly is 16,868, four districts exhibit these figures: 6823, 7923, 16,868 and 25,143.<sup>4</sup> But the most glaring cases of rotten boroughs occur in New England, in Vermont,<sup>5</sup> and notably in Connecticut; in this unfortunate State, to quote from a recent publicist,<sup>6</sup> there would be found in the lower house "one town with a population of 86,045 equalized with another town having a population of but 431; and as to the State Senate, a district which at the Presidential election of 1888 cast 17,649 votes equalized with another district casting but 2585 votes." We are reminded of Old Sarum.

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<sup>1</sup> *Congressional Directory*, 1891.

<sup>2</sup> In New York City. <sup>3</sup>*Ibid.*

<sup>4</sup> *New York Evening Post*, Dec. 1891.

<sup>5</sup> H. White, *Fortnightly Review*, 32: 506.

<sup>6</sup> *The Nation*, Dec. 17, 1891.



There are in the upper house some instances of attempted apportionment with a view to population. But where the federal system of government prevails, the individuality of the component parts has been jealously guarded. Compare the equal representation of the States in the Senate, in the American Union, with that of the Cantons in the Swiss Council of States.

Few bodies have longer terms of existence than six years. The model furnished by the United States Senate was followed by some countries further south, though the Argentine Republic and Brazil elect Senators for the extraordinarily long term of nine years. This is also the term of the First Chamber in the Netherlands. A maximum limit (infrequently reached) within which time the Chamber may be dissolved, of seven, five years, etc., is seen in the House of Commons,<sup>1</sup> Italian Chamber, and many others. In general, our Eastern and older States cling to short terms; the newer and Western States prescribe longer periods. The term in the Senate is frequently double that of the lower house in the States. Four and two years respectively is the combination now in use in twenty-seven out of the forty-four States. One State—Mississippi—assigns four years to each house.

No generalization can be made involving a comparison of short or long terms of service and political freedom or repression in the respective countries.

In regard to re-election of members, the best examples of long service are to be found in the House of Commons. Instances of ten and fifteen years' service are common; twenty or thirty years are not rare. Gladstone's case is often quoted; a continuous service—except a short intermission in 1846-47—from December, 1832, to the present time; but remarkable as that is, it does not greatly exceed some other records.<sup>2</sup> The parliamentary careers of Continental leaders

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<sup>1</sup> Of twenty-three Parliaments in this century, only three have passed the six-year limit.

<sup>2</sup> *E. g.*, Palmerston, Russell.



are frequently long. The prominent men in the Assemblies of France, Spain, and Italy, for example, have been re-elected again and again. In the United States Senate re-election is common. Not a few Senators are a second time re-elected, and there are some instances of service like the uninterrupted thirty years of Benton, the twenty-three years of Sumner, or the twenty-eight years of Sherman. Of seventy-six Senators in the Fifty-second Congress (omitting those from the six newly-admitted States<sup>1</sup>) forty have passed their first term. It has been often stated that the South honors her delegates by re-election more frequently than the North, but an analysis of the Fifty-second Congress shows that the percentages of the two sections do not vary greatly.

A fair majority of representatives are usually re-elected. A few attain a service of five or six terms, and the dean of the body can generally look back upon over twenty years of continuous life in the popular branch. Too often personal reasons, party exigencies, or a mistaken devotion to the sacred cause of rotation interfere.

In the smaller field of local American bodies, long tenure of office not seldom prevails, and New York can boast that the late Republican leader<sup>2</sup> of the Assembly had been for twenty-two years elected to that body, and had been six times Speaker. Against this we may set a small town in an adjoining county of Connecticut, where nearly every important citizen belonging to the dominant party had served in the legislature; or we may instance a certain district in Massachusetts, where four small towns furnish in rotation a representative; we can easily count up seven citizens from a single part of one of these towns who have in this way illustrated the great principle of rotation in office.

The initiative in legislation, in so far as revenue matters are concerned, has been conferred, with substantial unanimity,

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<sup>1</sup> North Dakota, South Dakota, Montana, Washington, Idaho, Wyoming.

<sup>2</sup> James W. Husted.

on the lower branch. This house stands the nearest to the people. And of all questions, those which affect the pocket-book may be called the most vital to the citizens at large. In the Spanish Cortes, however, either house may take the initiative. Familiar instances of the primacy of the lower branch in this respect are the American House of Representatives, the House of Commons, the Danish Folkething, and the Portuguese Chamber. The Bundesrath, essentially a diplomatic body, and hardly furnishing a real parallel to other senates or conclaves of peers, is an apparent exception to the general rule; it originates bills, has an oversight of the administration, and possesses important confirming powers. Fourteen of its fifty-eight votes can negative a constitutional amendment. The restrictions laid on the upper house are exemplified in some constitutions. For instance, in the Netherlands, it cannot amend the bills of the lower body, but must accept or reject them *in toto*. The British House of Lords cannot amend a money bill, neither can the Canadian Senate. The upper house of the Prussian Landtag cannot amend the budget.

The relations to the executive show great divergence. Countries of the English type display the ministerial responsibility well developed. On the Continent generally the connection is somewhat slighter. In Sweden and Norway it is undefined. Affairs in Germany may be said to be in a somewhat anomalous position. To be sure, the German Constitution "creates no ministry responsible to the legislature."<sup>1</sup> But the system of government seems to be in a transition stage between the one-man rule of quasi absolutism under constitutional forms, and the liberal *régime* of modern times. There is no ministerial responsibility in Switzerland. Between the Anglo-Continental system and the Congressional plan there is, as was remarked above, a world-wide difference.

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<sup>1</sup> Burgess, *Political Science*, II., 26.

The sovereign of a monarchy or the president of a republic still has, with few exceptions, some share—often considerable—in legislation.<sup>1</sup> The German emperor has vast power; the other European constitutional sovereigns generally less. The king of Sweden has an absolute veto in Sweden, and promulgates various laws, though in his office as king of Norway he has a suspensive veto only, and possesses some temporary powers when the Storting is not sitting.

The restrictions placed on national governments by different constitutions are well illustrated in the United States and Canada. In the latter the Dominion Parliament has all powers not expressly conferred on the Provinces. The American States retain all powers not definitely bestowed on the Federal Congress. The wide field of legislation occupied by the Parliament at London is well contrasted with the narrower scope of our Congress. "Consider the most important subjects of legislation in England during the present century, the subjects which make up almost the entire constitutional history of England for eighty years. These subjects are: 'Catholic emancipation, parliamentary reform, the abolition of slavery, the amendment of the poor-laws, the reform of municipal corporations, the repeal of the corn laws, the admission of Jews to Parliament, the disestablishment of the Irish Church, the alteration of the Irish land laws, the establishment of national education, the introduction of the ballot, and the reform of the criminal law.' In the United States only two of these twelve great subjects could be dealt with by the Federal government, (repeal of the corn laws and the abolition of slavery). All the other questions enumerated would have to be dealt with by our State governments."<sup>2</sup> Important undertakings are now often authorized by private bills<sup>3</sup> in the British Parliament.

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<sup>1</sup> The President of Honduras has the absolute veto.

<sup>2</sup> Fiske, *Civil Government*, 177.

<sup>3</sup> S. Walpole, *The Electorate and the Legislature*, 132.

As another instance of differing powers, the national legislature can—in Mexico for instance—determine the conditions of suffrage; in Germany, Canada, and Switzerland, it attends to details only;<sup>1</sup> and in the United States this matter is left to the separate States.

The centralized tendencies of the French system are too well known to require comment, although the provisions of the Constitution are, comparatively, neither numerous nor complex.<sup>2</sup> Our Congress plays a lesser part in legislation touching individual liberty, as that matter is provided for in the Constitution. In such powerful States as France, Germany, and Great Britain, legislation has a far greater share in establishing such civil liberty as exists.<sup>3</sup>

The Federal Assembly of Switzerland has elective and judicial powers. The House of Lords is a judicial body in impeachment matters, as is the American Senate; and the Storthing is also a high court of impeachment, in which the Lagthing and Odelsting have parts analogous to those of our houses of Congress. The Bundesrath acts as a court in certain cases. The French National Assembly has the important duty of electing the President of the Republic, while the Swiss Federal Assembly chooses the entire executive (Federal Council).

The provinces covered respectively by organic law and statute law are loosely defined in many countries, Switzerland for instance. Some recent State constitutions introduce provisions that older State constitutions have left to the discretion of the legislatures.<sup>4</sup>

Every parliamentary body has, of course, a presiding officer and such functionaries as clerks or secretaries, and doorkeepers, messengers or intermediaries between the different branches of government, and various attendants. The

<sup>1</sup> B. Moses, *Federal Government in Switzerland*, 99.

<sup>2</sup> Wilson, *State*, 200.

<sup>3</sup> Burgess, *Political Science*, I., 182, etc.

<sup>4</sup> McCracken, *Federal Government in Switzerland*.

<sup>5</sup> Fiske, *Civil Government*, 194.

Speaker—as he is usually styled in Anglo-Saxon countries, the President, to use his ordinary title elsewhere—is a personage of great importance. But in Great Britain his functions are those of a presiding officer principally, and this is usually the case. But British or colonial speakers, presidents of chambers of deputies, sink into comparative insignificance beside the American Speaker. This august personage has become in importance the second in the country. Member and a chief leader of the party in control of the House of Representatives, he appoints the committees which shape all legislation. Through the make-up of these committees he promotes or retards policies and measures of great moment. Interpreting with much latitude his functions as presiding officer, he recognizes on the floor those whom he selects. An interesting contrast is furnished between republican United States and monarchical Spain. In the former a new member, or one having no especial prominence, may for a session vainly try, though endowed with extraordinary lung-power, to “catch the Speaker’s eye”; in the latter any member can hand his name in advance to the Speaker, who assigns to him a turn on the floor.<sup>1</sup> The vast appointive power of the Speaker is possessed on a smaller scale by the Speakers of the State legislatures.

The rules of the American House are much more complicated than those of the Senate. Indeed, so intricate are the House rules that one or two sessions must ordinarily be passed before a member is fairly well equipped for the business. As members not unfrequently serve but a term or two, this complexity of rules must have marked results on legislation. Certain days are set apart for particular branches of legislation, as in the House of Representatives, Monday for new bills on the roll call of the States, Friday for private bills, etc.;<sup>2</sup> in the House of Commons, for example, Mondays, Thursdays and Fridays are reserved for government orders, Tuesdays for notices of motions.

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<sup>1</sup> *Cf. e. g., H. M. Field, Old Spain and New, 107.*

<sup>2</sup> *Wilson, Congressional Government, 73.*



Intercourse between the chambers is conducted with less state than formerly. In cases of disagreement between the two houses, conference committees arrange a compromise; on this point a curious and perhaps praiseworthy provision exists in Austria: "if a disagreement arise between the chambers (of the Reichsrath) upon a question of finance or of military recruitment, the lowest figures or numbers are to be considered adopted."<sup>1</sup>

To facilitate legislation and check useless talking and obstruction, recourse is had to various devices. In the United States the previous question is used. Closure has been practiced in recent years in England as well as on the Continent, though one important British colony has not followed in the maternal footsteps.<sup>2</sup> A radical change in this respect was effected by the 51st Congress, in 1890, which adopted a new set of rules; the leading point of this celebrated code was the following: "The names of members (sufficient to make a quorum) in the hall of the House who do not vote shall be noted by the Clerk and recorded in the journal, and reported to the Speaker with the names of the members voting, and be counted and announced in determining the presence of a quorum to do business."<sup>3</sup>

As already hinted, committee government reaches its greatest development in the United States. There is a peculiar arrangement in France. The Senate has nine bureaux, and the Chamber has eleven. These select the committeemen monthly by lot. These committees are named: those on leave, petitions, parliamentary initiative, and local interests, and they consider propositions of private members; but financial matters are considered in the Senate by a special standing committee of eighteen members, the Finance Committee, and in the Chamber by a like body of thirty-three,

<sup>1</sup> Wilson, *State*, 347.

<sup>2</sup> No closure in the Dominion Parliament; Bourinot, *J. II. U. Studies*, 7th series, 572.

<sup>3</sup> 51st Congress. *Rules*, XV., 3.



the Budget Committee.<sup>1</sup> The German Reichstag has no standing committees,<sup>2</sup> but the Bundesrath has twelve. In Norway the Lagthing, comprising one-fourth of the Storting, is itself a sort of revising committee. In Sweden there is a peculiar feature in the existence of a joint committee of the houses on legislation.

The Dominion Parliament has important committees on private bills, public accounts, agriculture and colonization. It has one colossal committee of 160 members on railways. These committees are appointed by a bureau called the committee of selection.<sup>3</sup>

This feature of a committee of selection is taken from the British House of Commons. That committee appoints the select committees, alone or in conjunction with the House, or the House alone may appoint them in some cases.<sup>4</sup> The Committee of Selection is itself appointed by the House.<sup>5</sup> The House has two standing committees on trade and legal affairs; on financial matters there are two committees of the whole House: the Committee of Supply—on the estimates—and the Committee of Ways and Means. In the Lords, the committees of the whole House, according to a recent reviewer, are the poorest, while the select committees do the best work.

Let us now take a glance at the elaborate committee organization of Congress. In the House of the 52nd Congress<sup>6</sup> there were forty-three standing and eight select. The membership ranges from 15 in the more important, like Ways and Means, to 7 (in the Committee on Expenditure in the Department of Agriculture). Far at the head of all in significance now stands the Ways and Means, appointment to which is regarded as nearly equivalent to the chairmanship

<sup>1</sup> Wilson, *State*.

<sup>2</sup> *Ibid.*, 262.

<sup>3</sup> Bourinot, *J. H. U. Studies*, 7th series, 565, 569.

<sup>4</sup> S. Walpole, *Electorate and the Legislature*, 115.

<sup>5</sup> *Ibid.*

<sup>6</sup> 1891-93.

of an ordinary committee, while its chairman is sometimes affectedly styled the "Premier," from an erroneous analogy with the Chancellor of the Exchequer or First Lord of the Treasury. Among those of next consequence may be named, Appropriations, Judiciary, Interstate and Foreign Commerce, Rivers and Harbors, Elections, Banks and Currency, Coinage, Weights and Measures, Agriculture, Foreign Affairs, Military Affairs, Naval Affairs, Merchant Marine and Fisheries.

The Senate had forty-three standing and eleven select committees. The number of members on a committee ranges from eleven in the most important to three in the minor committees. Appropriations and Finance head the list, and then come Commerce, Foreign Relations, Judiciary, Interstate Commerce, Military Affairs, Naval Affairs, Privileges and Elections, Public Lands, Rules, and Fisheries, among the more important. The nature of the select committees may be inferred from such titles as, Transportation of Meat Products, Committee to Establish a University of the United States, Quadro-Centennial, Nicaraguan Claims, and Committee on President's Message Transmitting Report of Pacific Railway Commission.

To illustrate the character of the committee in a State body, let us take the make-up of the New York Legislature for 1891. There were 34 Senate Committees, of which the chief were: Finance, Judiciary, Railroads, Cities, Commerce and Navigation, Canals, Insurance, Taxation and Retrenchment, Miscellaneous Corporations. As illustrations of committees of a local nature, we may name those on Manufacture of Salt, and Game-Laws. The average membership of important committees was 7, on others 3. In the Assembly, Ways and Means, Judiciary, General Laws, Revision, Codes, Tax and Retrenchment, Canals, Affairs of Cities, Railroads, Commerce and Navigation, Insurance, Banks, and Excise head the list; while Soldiers' Home, Fisheries and Game and Indian Affairs serve to illustrate lines of legislation on distinctively local subjects. The membership of Assembly Committees was 11 or 9. Attention is called to the cor-

respondence in names of the leading committees in the upper and lower houses and those in the two houses of Congress.

Now, to illustrate the use of committees in a local legislative body, let us take Brockton, Massachusetts, a manufacturing city of about 27,000 inhabitants, which graduated from the town meeting and selectmen form of administration some eleven years ago. There is<sup>1</sup> a board of 7 aldermen, one from each ward, and a board of 21 common councilmen, 3 from each ward. They are elected annually and receive no pay; the aldermen hold meetings weekly, the common councilmen ordinarily once in two weeks. There are twelve joint standing committees, with an average membership of 5, of which we may mention as specially important those on finance, claims, accounts, public property, water, fuel and street lights, fire, highways, sewerage and drainage. There are two standing committees of the common council on elections and returns, and on enrolled ordinances, and these also give name to two of the seven standing committees of aldermen; the remaining five are entrusted with police, licenses, health, state aid, and buildings. A tendency to elaboration of committee organization is observable generally in the United States. Even the new State of Washington finds necessary 38 standing committees in its Senate,<sup>2</sup> and 43 in its House.<sup>3</sup>

The phenomenon of a permanent committee between two sessions is observed in the Bundesrath with its eight commissions, and on a smaller scale in Uruguay, where a committee of Parliament sits from July to February in the place of the main body.

Sessions are annual, as is usually the case with Congress; or there are sessions at intervals through the year, as in Europe; or, as in nearly all the American States, the sessions are biennial; only five States, viz. New York, Massachusetts,

<sup>1</sup> *Brockton City Government*, 1889.

<sup>2</sup> More than one to each of the 35 members.

<sup>3</sup> *Legislative Manual of Washington*, 1891-92.

Rhode Island, New Jersey, and South Carolina, retain annual sessions, and those of Ohio are virtually annual.

The opening and closing of sessions take place with more or less of pomp and ceremony, with accompaniments of speeches from the throne and presidential messages, with important announcements, with unusual concourse of visitors, and frequent hurry and rush of measures, in the closing hours. The German Chancellor in his opening address to the Reichstag stands like a statue in full armor, leaning on his sword. In the Diet of Croatia and Slavonia the ceremonies of opening and closing are still "performed with a pomp and parade worthy of the Middle Ages."<sup>1</sup>

On the subject of parliamentary manners, an American, fresh from contemplation of proceedings in Congress or a State legislature, is inclined to think that turbulence is often the order of the day. The solemn carrying of the mace through the National House of Representatives is, however, a rare occurrence. Careful attention to the business of the house is uncommon in both branches of Congress, where members may be observed reading, writing or telling stories, and an orator sometimes speaks to a corporal's guard, while the vast majority fly to the cloak rooms.<sup>2</sup> With this habit we may compare the practice in the British House of Commons of "scraping down" a long-winded speaker. An inspection of the records two generations ago shows an advance. Imagine such a scene occurring now, even in a passionate debate, as took place in Jackson's time, between Randolph of Roanoke and a rough fighter from Connecticut, when personal allusions on mutual bodily infirmities were interchanged in language that cannot be reported, apparently without reprimand. But parliamentary good manners and orderliness are still far below the ideal. In the British House of Commons bear-garden scenes took place when Gladstone was assailed in 1885. One orator used the unrebuked

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<sup>1</sup> Victor Tissot, *Unknown Hungary*, I., 117.

<sup>2</sup> *E. g.*, a Senator, well equipped on his theme, recently read his carefully prepared address to an audience of one.

euphemism "You are a liar."<sup>1</sup> The *Saturday Review*, surely no unfriendly critic on home matters, thus declares: "The House of Commons hardly comes up any longer to the recognized standard of a debate in Washington."<sup>2</sup> In the Italian Chamber of Deputies "the violent remarks of the Socialist leader, Signor Cipriani, who was frequently called to order, led to so great an uproar that the presiding officer was obliged to suspend the sitting."<sup>3</sup> Similar occurrences happened in the French Chamber of Deputies in the winter of 1891-92; "Unbridled license prevails,"<sup>4</sup> says one writer. In a recent session of the lower house of the Austrian Reichsrath the word traitor was used and was followed by a scene of indescribable tumult; a crowd of Czechs surrounded the orator, threatening physical violence, and the presiding officer was forced to close the sitting.<sup>5</sup>

It is pleasant to note the testimony of observers in the other direction. Thus an habitual attendant remarks that "many years have passed since a member (of the Dominion House of Commons) has been named and censured."<sup>6</sup> The courtesy and order in the Spanish Cortes have attracted favorable attention. All State legislatures are not bear-gardens. And we may believe that such scenes as those above described are sporadic.

The personality of members is an important matter. And we have now to consider the vocations and the general grade of intelligence and ability. In this country lawyers lead; bankers, merchants, manufacturers, business men in general, farmers, and a sprinkling of doctors, professors, and clergymen is found. But the latter classes are rarely seen in Congress. The 52nd Congress had only one or two examples of the "scholar in politics." Local conditions may

<sup>1</sup> *Fortnightly Review*, 43 : 264.

<sup>2</sup> *Saturday Review*, March 4, 1882.

<sup>3</sup> N. Y. *Herald* dispatch, Dec. 6, 1891.

<sup>4</sup> In 1889.

<sup>5</sup> N. Y. *Tribune*, Nov. 19, 1892.

<sup>6</sup> Bourinot, in *J. H. U. Studies*, 7th series, 572.



bring certain occupations to the front; as the farmers in many State legislatures. On the other hand, a great city's contingent to the legislature and the municipal body may present peculiar features. Witness the annual records of that Doomsday Book, the "Directory for Voters," published by the Reform Club of New York; in these ominous analyses the statements "liquor-dealer," "no ostensible business but politics," "practical politician," "lawyer of the lowest type," follow one another with tiresome regularity.

We may quote here a remark of an American publicist: "There is no country where so little respect is paid to acquirements, preparation, training in the arts of legislation and government. Lawyers are generally preferred for such offices, it is true, but this is not because they are learned in the law, but because their vocation has given them readiness of speech";<sup>1</sup> against this, we may set the recent prejudice against lawyers evinced by the Populists in Kansas.

The House of Commons is still recruited very largely from men of the leisure class. Younger sons of peers, lords by courtesy, knights, large land-owners, still figure prominently on the roll. But successful bankers, merchants and manufacturers are numerous. The "scholar in politics" is more largely represented than in the United States. Here as elsewhere the tendency manifested by men of the masses to be led by men of the classes, may recall to the student of general history the austere figure of Pericles, the hero of the demos, those blue-blooded aristocratic tribunes Tiberius Gracchus and Drusus, Mirabeau, and many others. The mass of the temporal peers is composed of scions of families who have appeared for ages in lists of the nobility or landed gentry. But the ranks are steadily recruited from new blood; a *novus homo*, a successful general, brewer, or poet, bureaucratic administrator, or treasury bench dignitary may look with some confidence to the time when he shall be gazetted to a viscountship or barony.

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<sup>1</sup> H. White, *Fortnightly Review*, 1879.



The aristocratic *personnel* of the British Parliament is, naturally, not so marked in her colonial assemblies. The Parliament of Victoria contains a fair sprinkling of men from the ranks.<sup>1</sup> In a body of the composition of the House of Lords, absenteeism is common, and sneers at "hereditary legislators" and "drunken lords" or "sporting lords" are only too well founded. The regular business is in fact usually transacted by thirty or forty members. Yet it is shown that about three-fourths of the lords speak or vote each session. Journalists are popular candidates in France. In the same country a man of letters or a *savant*, a distinguished novelist, poet, historian or scholar has an ambition—often satisfied—to crown his career by election to the National Assembly. To a great degree the members of the lower house of the Spanish Cortes are educated men of position; and a recent cabinet in this monarchy, with its traditions of *grandees* and a proud nobility, did not contain a man with a title.<sup>2</sup> In Germany the "learned element" is probably present in fuller force than elsewhere. The Frankfurt Parliament of 1848 was, as is well known, described as an assemblage of professors; and the same tendency is still visible to a less extent.

The average ability of legislators is a far more difficult problem. Flings at the United States Senate as a club of millionaires are common; and it must be said that there seems no immediate prospect of a return to the epoch of Webster, Clay and Calhoun; and it is undoubtedly true that a rich man, of slender equipment for legislative duties, can often reach this branch of Congress. But, it is urged, these Senators cannot be men of light calibre; amidst the fiercest competition they have forced their way to the front. The standard in State legislatures does not seem to be improving, if we may judge from recent indications.

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<sup>1</sup> *Fortnightly Review*, 1879.

<sup>2</sup> H. M. Field, *Old Spain and New*, 107.

In local boards of aldermen and councilmen, the quality of a city's law-givers depends apparently on the size of the municipality, the indifference of a large mass of good citizens to their political duties, and the growth of rings. Bold indeed would be the man who would assert that New York City had not as large a proportion of virtuous and enlightened citizens as a small city in—let us say—Massachusetts. And bolder still would be the man who would institute a comparison between their respective city councils.

In England the popular conception is undoubtedly expressed by the saying when a talented Commoner has been translated to the Lords, that "he has been kicked upstairs." At a modern election (1870), according to a late publicist,<sup>1</sup> "a few Liberals of recognized ability stood for Parliament and failed, with a single exception in Scotland, because being men of limited means they could only afford to contest constituencies where the influence of great landlords predominated." And Hare points out that the decrease of rotten boroughs has caused fewer young men of marked ability to enter public life.<sup>2</sup> The days have nearly passed when a Pitt, Palmerston, or Gladstone can hold important offices or rise to prominence almost immediately after quitting the school or university. It has been observed that political scholars generally do better work outside of Parliament, as witness Bentham, Grote, Fonblanque, and Harrison.

A careful observer of Canadian affairs says: "The (Canadian) House of Commons comprises many of the ablest men of the country, trained in law and politics." On the Continent it is supposed that the average ability and character of the elected bodies is quite high; and this would seem to be true in those countries where a large amount of self-government has been intelligently practiced. The French Senate, it is stated, will not suffer in comparison with the Chamber of Deputies.<sup>4</sup> The turbulence noted in

<sup>1</sup> *Fortnightly Review*, 1879.

<sup>2</sup> Thomas Hare, *Representatives*.

<sup>3</sup> Bourinot, *J. H. U. Studies*, 7th series, 561.

<sup>4</sup> Burgess, *Political Science*, II., 112.

some of these Continental bodies may be racial, rather than a criterion of character. Sir Charles Dilke, than whom there are few more attentive observers of Continental politics, makes this unfavorable comment: "There is a little eccentricity in Italian politics, shown by the occasional return of swindlers, libellers, lunatics and murderers to sit at Montecitorio."<sup>1</sup> Exceptions do not make the rule. The Hungarians are natural politicians; "A candidate (for the Hungarian Reichstag) rarely spends less than £800 to warm his seat, and £8000 have been spent."<sup>2</sup> The Spaniards crave a seat in the Cortes, and pay liberally for the privilege.

We next consider briefly the subject of local representative assemblies. Passing over the familiar State and Territorial legislatures and municipal councils of this country, we find that in Spanish America local self-government is theoretically generally provided for. Each State in Mexico has a legislature, popularly elected, as has Venezuela, whose government is quite decentralized. Less liberal is the local government of Colombia and Bolivia. Chili has popularly elected departmental municipalities. Peru has a partial provision in this respect, with its Municipal Councils elected by provincial colleges, and Costa Rica has cantonal municipal government.<sup>3</sup> In government as elsewhere, no two things are often farther apart than theory and practice, and the government of Guatemala, which enjoys universal suffrage, is stated by a late exhaustive writer on her present condition, to be "republican in name only."<sup>4</sup> The large and progressive republics of Brazil and the Argentine Confederation have State legislatures.

Local legislative bodies now exist in England and Wales, since the creation of the County Councils in 1888. For these purposes there is a division into 60 administrative counties, 61 county boroughs, and London, in all 122 districts. Coun-

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<sup>1</sup> Dilke, *Present Position of European Politics*, 230.

<sup>2</sup> Tissot, *Unknown Hungary*, II., 136.

<sup>3</sup> J. B. Calvo, *Costa Rica*, 161.

<sup>4</sup> W. T. Brigham, *Guatemala*, 321.

cillors are elected by popular vote for a term of three years. In turn the councillors elect aldermen who serve for six years, one-half retiring every three years. The councils are, however, subordinate to the Local Government Board of the central government. They legislate on the management of bridges, rates, hiring money, Parliamentary registration and polling districts; they manage certain asylums and reformatory schools, license halls for dancing, supervise the salaries of certain officers, etc. Except in London, they control the police, conjointly, however, with the justices of the peace. County Councils in Scotland, similar in most respects, were created in 1889. Ireland has no popular government in the counties.

The municipal corporations of England have councils, elected by rate-payers, whose term is three years; one-third of the councillors retire every year. These bodies possess wider powers than the county councils and have, in particular, a fuller control of police. The councillors elect the aldermen and mayor. The County Council for London is an important body of 128 members; the City of London has a close board of 25 aldermen. Popular municipal government in Scotland exists; in Ireland some of the towns are partially self-governing. The city government of such large British cities as Glasgow and Birmingham has attracted wide and favorable comment.

Canada has provincial Parliaments with large local powers. These Parliaments have two chambers, as in Quebec and the Maritime Provinces, or one chamber, as in Ontario, Manitoba and British Columbia. The North-West Territories have a Legislative Assembly, mostly elected. The local bodies in the small British colonies are partly elected, partly nominated. Local self-government in Australia is rather restricted. New Zealand has popularly elected county councils, and elsewhere there is popular government to a certain extent. The Cape, however, has quite a system of bodies below its Parliament, divisional councils, partially elected city councils, and Village Management Boards. In the largest pos-

session of all, British India, the local government principle has been recently introduced to some extent, though Home Rule for the country at large is jealously denied. The larger Indian towns, and many of the smaller, now possess committees, a majority of whose members are chosen by the rate-payers, and the experiment, according to a recent political writer,<sup>1</sup> was working quite satisfactorily in the Central Provinces.

France gives to its outlying possessions what Great Britain denies—representation in the National Assembly. Algeria contributes 6 deputies, and the colonies 10. Each French department has an elected *conseil général*, having little powers, and the elected *conseils d'arrondissements* are also of minor importance. Each commune possesses, through choice by universal suffrage, a municipal council, whose powers it is the object of the Radicals to greatly increase. Algeria, besides representation at Paris, as above mentioned, has a Superior Council, which votes a budget, elected by provincial councils for the three provinces.

Each province in Spain has an annual parliament (*Disputacion Provincial*), and the communes have elected councils (*Ayuntamientos*) of 5 to 39 *Regidores*. Italy has also provincial parliaments and communal councils, and the communal electorate is somewhat less restricted than the electorate for Chamber of Deputies. A peculiarity in the Belgian provincial councils is the standing committee of 6 members, which attends to local finances in the intervals between the 15 days' sessions of the full council.<sup>2</sup> Communal councils, too, exist, but the electorate is restricted in all the bodies. In the Netherlands, Provincial States, elected for six years, legislate for the provinces and choose the upper house. Permanent committees, called Deputed States, form the executive. Communes have elected councils. The central government keeps a close connection with these local assemblies. Local self-government is not so extensive in

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<sup>1</sup> *Fortnightly Review*, 1883, 45 : 243.

<sup>2</sup> Cf. the committee of the Bundesrath, mentioned above.



Norway as in Sweden, although the former is considered to be the more democratic country. Both have town and communal councils, and Sweden has provincial councils.

Great diversity exists in Germany in the powers of the local bodies, and there is no uniform system. There are town and city councils, diets of the circles (*Kreise*), and provincial *landtags* of the Prussian provinces; the last, highest in importance of territory and population, have limited powers. All the Swiss cantons have representative assemblies, except Uri, Unterwalden, Glarus, and Appenzell, which furnish—in their *Landesgemeinden*—familiar instances of pure democracy.<sup>1</sup> The *Landtags* of Austria-Hungary may be regarded as local bodies, and some of them (*e. g.* the Bohemian diet) as, in a sense, national bodies. Their composition is described in the table. Just as in some parts of Spanish America we often find liberal provisions on paper, and indifferent performances, so in Servia we observe local assemblies for counties, municipalities and communes.

Legislative Assemblies in Russia may be dismissed with almost the brevity of the celebrated chapter on the "Snakes of Ireland." Householders of the *mir*s compose the communal assemblies, and delegates of the *mir*s compose the cantonal assemblies. The district and provincial *Zemstvos* have certain powers, as have the municipal bodies; but centralizing tendencies have been still further developed by the changes of 1889 and 1890. Finland has a Parliament which meets every few years. It has restricted powers, and is formed from the four estates of nobles, clergy, burghers, and peasants. The local self-government of the Russian Baltic provinces, which had been largely in the hands of the German nobility, has been nearly abolished by changes of 1888-89.

While establishing for herself an entirely new National Parliament, Japan has also provided for prefectural (*i. e.* pro-

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<sup>1</sup> See the interesting description of the proceedings of the Appenzell *Landesgemeinde* in Bayard Taylor, *Byways of Europe*.



vincial or departmental) and city assemblies, with restricted powers. But she has joined the commonwealth of constitutional nations too recently to allow of any deductions on her parliamentary government.

No treatment of representative bodies would be complete without a reference to the growth of the referendum and initiative.<sup>1</sup> These principles can be given in no better way than in the language of the Swiss Federal Constitution: "Federal laws shall be submitted for acceptance or rejection by the people, if the demand is made by 30,000 voters, or by 8 cantons. The same principle applies to federal resolutions which have a general application, and which are not of an urgent nature."<sup>2</sup> This is in federal legislation. All the cantons, except Fribourg, now have the referendum in cantonal legislation. It may be compulsory, or facultative, that is, contingent on certain requirements. But the initiative goes further. To quote again from the same instrument: "The Popular Initiative may be used when 50,000 Swiss voters present a petition for the enactment, the abolition, or the alteration of certain articles of the Federal Constitution." "Petitions may be presented in the form of general suggestions, or of unfinished bills."<sup>3</sup> Seventeen cantons have the initiative.<sup>4</sup> And the system just perfected in the canton of Ticino is considered particularly noteworthy.

Belgium is agitating the matter. There are indications of an increase of interest in the United States, as was evinced by a plank in the platform of the Populist party. California recently<sup>5</sup> called for a popular vote partaking of the

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<sup>1</sup> "It would be rash to say that we ought to adopt the Swiss methods without modification, or that they would be applicable to all parts in the present state of the Union, but they are worthy of careful consideration."—J. M. Vincent, *State and Federal Government in Switzerland*, 129.

<sup>2</sup> *Swiss Constitution*, Art. 89.

<sup>3</sup> *Swiss Constitution*, Art. 121.

<sup>4</sup> In 1891.

<sup>5</sup> November, 1892.

nature of "initiative," asking that its legislature should be "instructed" on the question of choosing United States Senators by popular vote, and the "initiative" of the people declared in favor of this innovation. So eminent a publicist as Mr. Dicey has lately advocated the introduction of the referendum idea in Great Britain.<sup>1</sup> The results produced by a general introduction of these principles would be certainly momentous; perhaps, as some think, they would lead to the abolition of an upper chamber, perhaps to a more direct popular interest in matters of government. And, possibly, the methods which apparently work so well in a small country like Switzerland, would prove impracticable if adopted by the Great Powers.

Recapitulating the results of our rapid survey, we observe the great development of the responsible ministry principle, and the inter-dependence of the executive and legislative. We note a few cases—like the Storting—where some judicial functions are taken by the assembly, thus controverting the dictum of Montesquieu, "Lorsque la puissance législative est réunie à la puissance exécutrice, il n'y a point de liberté."<sup>2</sup>

We see a prevailing tendency to bicameral assemblies, confirming the saying of Lieber, "it is a truly popular principle to insist on the protection of a legislature divided into two houses."<sup>3</sup> We mark the strongly exclusive character of the upper houses in Europe, and the insistence on property qualification, prevalent even in Anglo-Saxon offshoots from the home country.

We consider the privileges extended in many places to professional men, and the restrictions frequently placed on priests, and sometimes on government officials. But no survey can fail to disclose the fact that some of the regions where laws are most liberal for electors and candidates, are

<sup>1</sup> E. Dicey, *Contemporary Review*, April, 1890.

<sup>2</sup> *Esprit des Lois*, p. 143.

<sup>3</sup> Lieber, *Civil Liberty*, 194.

among the least shining examples of self-government. Certain South American republics, Bulgaria, and Hayti, have—so to speak—an excellent legislative plant, but we will not look for political salvation to come from Caracas, Sofia, or Port-au-Prince.

A consideration of the intricate details of the existing legislative bodies, with the changes occurring thick and fast before our eyes as we write, would be an inviting but vastly perplexing field of research. It might well demand the most painstaking observation of minutiae and the broadest historic grasp.

TABLE

OF THE LARGER REPRESENTATIVE ASSEMBLIES: COMPRISING THOSE ABOVE THE  
RANK OF PROVINCIAL, DEPARTMENTAL, COUNTY, OR CANTONAL BODIES;  
AND GIVING THE MEMBERSHIP, TERMS, AND REMARKS ON THE  
QUALIFICATIONS AND ELECTORATE.

COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
UNITED STATES. Congress.	Senate 88, 6 yrs, 30 yrs of age.	House of Represen- tatives 356, 2 yrs, 25 yrs of age.	Universal suffrage.
MAINE. Legislature.	Senate 31, 1 yr.	H. R. 151, 1 yr.	
NEW HAMPSHIRE. General Court.	S. 24, 1 yr.	H. R. 359,* 1 yr.	
VERMONT. General Assembly.	S. 30, 2 yrs.	H. R. 241, 2 yrs.	
MASSACHUSETTS. General Court.	S. 40, 1 yr.	H. R. 240, 1 yr.	
RHODE ISLAND. General Assembly.	S. 37, 1 yr.	H. R. 72, 1 yr.	
CONNECTICUT. General Assembly.	S. 21, 1 yr.	H. R. 252, 1 yr.	
NEW YORK. Legislature.	S. 32, 2 yrs.	Assembly 128, 1 yr.	
NEW JERSEY. Legislature.	S. 21, 1 yr.	General Assembly 60, 1 yr.	
PENNSYLVANIA. General Assembly.	S. 50, 4 yrs.	H. R. 201, 2 yrs.	
DELAWARE. General Assembly.	S. 9, 4 yrs.	H. R. 201, 2 yrs.	
MARYLAND. General Assembly.	S. 26, 4 yrs.	H. Delegates 84, 2 yrs.	
VIRGINIA. General Assembly.	S. 43, 4 yrs.	H. Delegates 132, 2 yrs.	
WEST VIRGINIA. Legislature.	S. 24, 4 yrs.	H. Delegates 65, 2 yrs.	
NORTH CAROLINA. General Assembly.	S. 50, 2 yrs.	H. R. 120, 2 yrs.	
SOUTH CAROLINA. General Assembly.	S. 32, 4 yrs.	H. R. 124, 2 yrs.	

\* In 1892.

COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
GEORGIA. General Assembly.	S. 44, 4 yrs.	H. R. 175, 2 yrs.	
FLORIDA. Legislature.	S. 24, 4 yrs.	Assembly 53, 2 yrs.	
ALABAMA. General Assembly.	S. 33, 4 yrs.	H. R. 100, 2 yrs.	
MISSISSIPPI. Legislature.	S. 40, 4 yrs.	H. R. 120, 4 yrs.	
LOUISIANA. General Assembly.	S. 36, 4 yrs.	H. R. 98, 2 yrs.	
TEXAS. Legislature.	S. 32, 4 yrs.	H. R. 115, 2 yrs.	
ARKANSAS. General Assembly.	S. 31, 4 yrs.	H. R. 89, 2 yrs.	
TENNESSEE. General Assembly.	S. 33, 2 yrs.	H. R. 99, 2 yrs.	
KENTUCKY. Legislature.	S. 38, 4 yrs.	H. R. 100, 2 yrs.	
OHIO. General Assembly.	S. 37, 2 yrs.	H. R. 111, 2 yrs.	
INDIANA. General Assembly.	S. 50, 4 yrs.	H. R. 98, 2 yrs.	
ILLINOIS. General Assembly.	S. 52, 4 yrs.	H. R. 156, 2 yrs.	
MICHIGAN. Legislature,	S. 32, 2 yrs.	H. R. 100, 2 yrs.	
WISCONSIN. Legislature.	S. 33, 2 yrs.	Assembly 100, 1 yr.	
MINNESOTA. Legislature.	S. 54, 2 yrs.	H. R. 114, 1 yr.	
IOWA. General Assembly.	S. 50, 4 yrs.	H. R. 100, 2 yrs.	
MISSOURI. General Assembly.	S. 34, 4 yrs.	H. R. 138, 2 yrs.	
KANSAS. Legislature.	S. 25, 2 yrs.	H. R. 75, 1 yr.	
NEBRASKA. Legislature.	S. 30, 2 yrs.	H. R. 84, 2 yrs.	



COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
SOUTH DAKOTA. Leg. Assembly.	S. 45, 4 yrs.	H. R. 124, 2 yrs.	All respectable adults.
NORTH DAKOTA. Leg. Assembly.	S. 30, 4 yrs.	H. R. 62, 2 yrs.	
MONTANA. Leg. Assembly.	S. 16, 4 yrs.	H. R. 55, 2 yrs.	
IDAHO. Legislature.	S. 18, 4 yrs.	H. R. 36, 2 yrs.	
WYOMING. Legislature.	S. 16, 4 yrs.	H. R. 33, 2 yrs.	
COLORADO. General Assembly.	S. 26, 4 yrs.	H. R. 49, 2 yrs.	
NEVADA. Legislature.	S. 18, 4 yrs.	Assembly 36, 2 yrs.	
CALIFORNIA. Legislature.	S. 40, 4 yrs.	Assembly 80, 2 yrs.	
OREGON. Leg. Assembly.	S. 30, 4 yrs.	H. R. 60, 2 yrs.	
WASHINGTON. Legislature.	S. 35, 4 yrs.	H. R. 70, 2 yrs.	
NEW MEXICO. Legislature.	Council 12, 2 yrs.	H. R. 24, 2 yrs.	Universal suffrage.
UTAH. General Assembly.	Council 12, 2 yrs.	H. R. 24, 2 yrs.	
ARIZONA. Legislature.	Council 12, 2 yrs.	H. R. 24, 2 yrs.	
OKLAHOMA. Legislature.	Council 13, 2 yrs.	H. R. 26, 2 yrs.*	Manhood suffrage.
MEXICO. Congress.	Sen. 56, 2 yrs. 30 yrs old, and property qual.	House Rep. 227, 2 yrs. Property qual.	
GUATEMALA. Nat. Assembly. One chamber.	52, 4 yrs.		
HONDURAS. Congress. One chamber.	37, 4 yrs.		

\* Universal suffrage is the rule throughout the States, in the sense that no property qualification or restrictive tax qualification is required (except in Delaware as above noted, and except for the nominal payment of a poll-tax in many States). Rhode Island was the last to abolish property qualification (in 1888). Various restrictions exist relating to illiteracy and length of residence, and criminals, idiots, and lunatics are excluded, as elsewhere.

COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
SALVADOR. Congress. One chamber.	70, 1 yr.		General suffrage.
NICARAGUA. Congress.	Sen. 18, 6 yrs.	House Rep. 21, 4 yrs.	Universal suffrage.
COSTA RICA. Chamber Rep. One chamber.	28, 4 yrs.		Those able to live respectably.
COLOMBIA. Congress.	Sen. 27, 6 yrs (also 6 members nominated by the president.)	House Rep. 66, 4 yrs.	Universal suffrage.
VENEZUELA. Congress.	Sen. 24, 4 yrs.	House Rep. 52, 4 yrs.	Universal suffrage.
ECUADOR. Congress.	Sen. 32, 4 yrs.	Chamber Dep. ca. 33, 2 yrs.	Roman Catholic adults, literate.
PERU. Congress.	Sen. ca. 40, 6 yrs. 35 yrs old, property qual.	House Rep. ca. 80, 6 yrs, property qual.	Indirect election.
BOLIVIA. Congress.	Sen. 16, 4 yrs.	Cham. Dep. 64, 4 yrs.	Universal suffrage.
CHILI. Congress.	Sen. 43, 6 yrs. Large property qual.	Chamber Dep. 126. 3 yrs. Property qual.	Property or income qual.
ARGENTINE CONFEDERATION. Congress.	Sen. 30, 9 yrs. 30 yrs old. Income qual.	House Dep. 86, 4 yrs. 25 yrs. old.	General suffrage.
URUGUAY. Parliament.	Sen. 19, 6 yrs.	House Rep. 53, 3 yrs.	Literate.
PARAGUAY. Congress.	Sen. ca. 30, 4 yrs.	Chamber Dep. ca. 55, 4 yrs.	Universal suffrage*
BRAZIL. Congress.	Sen. 63, 9 yrs. 35 yrs old.	Deputies 202, 3 yrs. Non-eligible are: clergy, state ministers, commanders.	Exclude illiterates, soldiers, members of certain monastic orders, etc.
HAYTI. Nat. Assembly.	Sen. 30, 6 yrs, nominated by the H. R.	House Rep. 50, 5 yrs.	Citizens having some vocation.
SANTO DOMINGO. Congress. One chamber.	22, 2 yrs.		Restricted.
GREAT BRITAIN. Parliament.	House of Lords 559, include hereditary peers, bishops, 28 Irish peers elected for life, 16 Scottish peers elected for one Parliament.	House of Commons 670, 7 yrs. 21 years old. Exclude clergymen of English, Scottish, Rom. Cath. church, and peers.	Exclude: government contractors, returning officers, sheriffs (also non-eligible for House of Commons). Limited property or income qual.

\* Bourgade, Paraguay.

COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
CANADA. Parliament.	Sen. 80, life; 30 yrs old, large property qual.	House of Commons 215, 5 yrs.	Property or income qual.
NEW SOUTH WALES. Parliament.	Leg. Council, 67, life, nominated.	Leg. Assembly 141, 3 yrs.	Property qual.
VICTORIA. Parliament.	Leg. Council 48, 6 yrs, large property qual.	Leg. Assembly 95, 3 yrs, exclude clergymen.	Universal suffrage.
SOUTH AUSTRALIA. Parliament.	Leg. Council 24, 3 yrs, property qual.	House of Assem. 54, 3 yrs, exclude clergymen and judges.	General suffrage.
QUEENSLAND. Parliament.	Leg. Council 40, life, nominated.	Leg. Assembly 72, 5 yrs.	General suffrage, plural votes.
WEST AUSTRALIA. Legislature.	Leg. Council 15, nominated, property qual.	Assembly 30, 4 yrs, property qual.	Property qual.
TASMANIA. Parliament.	Leg. Council 18, 6 yrs.	House of Assembly 36, 3 yrs.	Property or income qual.
NEW ZEALAND. Gen. Assembly.	Leg. Council 41, life, nominated.	House Rep. 74, 3 yrs.	Property qual.
CAPE COLONY. Parliament.	Leg. Council 22, 7 yrs, property qual.	House of Assembly 76, 5 yrs.	Property or income qual.
FRANCE. Nat. Assembly.	Senate 300, 9 yrs. Election indirect. 75 elected for life.	Chamber Dep. 584, 4 yrs, 25 yrs old.	Universal suffrage.
SPAIN. Cortes.	Senate <i>ca.</i> 360, <i>ex-officio</i> , hereditary, nominated for life or elected by restricted bodies.	Chamber Dep. 431, 5 yrs.	Universal suffrage. 25 yrs old.
PORTUGAL. Cortes.	House of Peers <i>ca.</i> 162, hereditary, appointed for life, or indirectly elected.	Chamber Dep. 173, 4 yrs, property qual. or learned profession.	Small income qual. or heads of families.
ITALY. Parliament.	Senate 335, nominated for life, and princes.	Chamber Dep. 508, 5 yrs, 30 yrs old, exclude priests, government officials.	Small tax qual. or class qual.
BELGIUM. Chambers.	Senate 69, 8 yrs, 40 yrs old, tax qual.	Chamber Rep. 138, 4 yrs, 25 yrs old.	Tax qual.
NETHERLANDS. States-General.	First Chamber 50, 9 yrs, property or high official qual.	Second Chamber 100, 4 yrs, 30 yrs old.	23 yrs old, tax qual.
DENMARK. Rigsdag.	Landsting 66, (12 nominated for life, 54 elected restricted. 8 yrs.)	Folkething 102, 3 yrs, 25 yrs old.	30 yrs old and personal qual.

COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
NORWAY. Storting 3 yrs. 114 members, 30 yrs old, qual. of electorate.	Lagthing, one-fourth of the Storting.	Odelsting, three-fourths of the Storting.	25 yrs old; property, income, or class qual.
SWEDEN. Parliament.	First Chamber 147, 9 yrs, 35 yrs old, property or income qual.	Second Chamber 228, 3 yrs, 25 yrs old, and qual. of electorate.	Property or tax qual.
GERMANY.	Bundesrath 58, appointed by the federal state governments for each session.	Reichstag 397, 5 yrs.	Universal suffrage. 25 yrs old.
PRUSSIA. Landtag.	Herrenhaus,*hereditary and life peers, nominated and elected by restricted bodies.	Chamber Dep. 432, 5 yrs, 30 yrs old, tax qual.	Indirect election, those eligible for municipal electorate, 3 classes, arranged by direct tax-payers.
BAVARIA. Landtag.	Cham. of Reichsräthe 71, hereditary and life.	Chamber Rep. 159, 6 yrs, 30 yrs old, tax qual.	25 yrs, tax qual.
WÜRTTEMBERG. Landsstände.	Standesherrn ca. 30, hereditary or nominated.	House Dep. 93, 6 yrs.	63 Dep. chosen by citizens, others by orders or <i>ex-officio</i> .
BADEN. Landtag.	Upper Chamber ca. 30-40, princes, hereditary, <i>ex-officio</i> , nominated or elected by nobility.	Second Chamber 63, 4 yrs.	Election indirect. Exclude paupers.
SAXONY. Landtag.	Upper Cham. ca. 50, hereditary, nominated, <i>ex-officio</i> , or elected by restricted classes.	Lower Chamber 80, 6 yrs.	Tax or property qual.

Minor German States: Hamburg, Bremen, and Lübeck have aristocratic Senates, and houses of Burgesses, the two former with restricted electorate. Mecklenburg-Schwerin and Mecklenburg-Strelitz have a feudal Landtag. Hesse and Saxe-Coburg-Gotha have Landtags of two houses, the others Landtags of a single house. Electorate is restricted by tax or other qualifications, or, as in Saxe-Weimar, where all the citizens have the franchise, they elect but part of the chamber. The single chambers vary in size from Reuss elder line (12) to Brunswick (46).

AUSTRIA-HUNGARY. Delegations 120.	60 from the Cisleithan Reichsrath, 60 from the Transleithan Reichstag, (20 from each of the Upper Houses, 40 from the Lower). Term 1 yr.		
AUSTRIA. Cisleithan part of the monarchy. Reichsrath.	Herrenhaus 212, Nobles, prelates, nominated life members.	Abgeordneten-Haus 353, 6 yrs.	Election direct and indirect, 24 yrs old, property or individual qual.

\*310 members, in 1889.

COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
HUNGARY. Transleithan part of the monarchy. Reichstag.	House of Mag- nates 456, heredi- tary, life, pre- lates, dignitaries, delegates.	House Rep. 453, 5 yrs.	20 yrs old, income, individual or small tax qual.
CROWN LANDS OF AUSTRIA.	Unicameral Landtags, term 6 yrs; composed of large land- owners, prelates, etc., and representatives of towns, com- munes and guilds. Electorate restricted to large land- owners, members of guilds, direct tax-payers. Number of members in Landtags: Lower Austria 72,      Moravia 100,      Istria 33, Upper Austria 50,      Bukowina 31,      Vorarlberg 21, Carinthia 37,      Dalmatia 43,      Bohemia 242, { Görz and { 22,      Salzburg 26,      Silesia 31, { Gradiska }      Styria 63,      Galicia 151. Tyrol 68,      Carniola 37,		
RUMANIA. Assembly.	Sen. 120, 8 yrs, 40 yrs old, income qual., (8 bishops included).	Chamber Dep. 183, 4 yrs, 25 yrs old.	Indirect election. Tax qual.
SERVIA. Skupstina. One chamber.	ca. 200 (?) (in part having university de- grees). 30 yrs old. Term 3 yrs.		Indirect election. Tax qual.
BULGARIA. Sobranje. One chamber.	250 for Bulgaria proper, and ca. 100 for Eastern Rumelia. 3 yrs.		Manhood suffrage.
GREECE. Boulé. One chamber.	150, 4 yrs.		Manhood suffrage.
SWITZERLAND. Federal Assembly.	Council of States 44, 3 yrs.	National Council 147, 3 yrs, exclude clergy- men.	Universal suffrage.
Swiss Cantons have representative Great Councils; but Uri, Unterwalden, Glarus, and Appenzel have assemblies of all the citizens (Landesgemeinden).			
MONTENEGRO. Leg. Council. One body.	8 members; 4 nominated, 4 elected.		Arms-bearing pop- ulation.
ANDORRA. Council. One body.	24, 4 yrs.		Heads of families.
FINLAND. Parliament.	4 estates: nobles, clergy, burghers, peasants. Convoked ca. once in 4 or 5 yrs.		
EGYPT.	Leg. Council.	Gen. Assembly.	
ORANGE FREE STATE. Volksraad. One chamber.	56, 4 yrs. Property qual.		Property qual. of whites.
SOUTH AFRICAN REPUBLIC.	First Volksraad of 24, 4 yrs. Re- stricted for aliens.	Second Volksraad* of 24, 4 yrs. Re- stricted for aliens	

\* Constitutional Amendment of 1890.

COUNTRY.	UPPER HOUSE.	LOWER HOUSE.	ELECTORATE.
JAPAN. Parliament.	House of Peers ca. 300. Nobles elected by their orders, members elected by large tax-payers, nomi- nated members. Term 7 yrs or life.	House Rep. 300, 4 yrs. Exclude various officials, priests, mil- itary and naval officers. 30 yrs old.	25 yrs old, tax qual.
HAWAII. Legislature.*	House of Nobles 24, 6 yrs.	House Rep. 24, 2 yrs.	Educational qual. and prop. qual. for House of Nobles.

\* Prior to the revolution of January, 1893.







III-IV

THE NEGRO IN THE DISTRICT  
OF COLUMBIA.

"The best African population, the wisest, the most enlightened that exists in the world, exists in the District of Columbia."—UNITED STATES SENATOR J. T. MORGAN.

"The Negro race is a living, not a dead, race, alive in the several respects of industry, acquisitiveness, education and religious aspiration."—REV. DR. ALEXANDER CRUMMELL.

"The better disposed class of the Negroes has signally vindicated the capacity for civilization within the limitations of personal and race impediments and in the use it has made of its opportunities."—REV. A. D. MAYO.

"I would entreat all who are working to solve this strange race problem—the hardest any nation ever had to solve—not to get section against section, North against South or South against North, or Afro-Americans against either, but to try by careful training of the young by giving them sound education—above all, teaching the trades and handicrafts of all kinds—by showing them the great future there is before the Afro-American people, to proclaim that racial misunderstanding should be forgotten, and that though there never will be, never can be, never ought to be a mingling of the races, yet each, side by side, can do much to build up this great land, of which both races are equally citizens."—ARCHDEACON FRANCIS J. CLAY MORAN.

JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE  
HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History.—*Freeman*

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ELEVENTH SERIES

III-IV

THE NEGRO IN THE DISTRICT  
OF COLUMBIA

BY EDWARD INGLE, A. B.

*Washington, D. C.*

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## CONTENTS.

- I. INTRODUCTION.
- II. THE BASIS OF OPERATIONS.
- III. APPLYING THE LEVER.
- IV. STRIVING FOR EQUALITY.
- V. AN EXPERIMENT IN SUFFRAGE.
- VI. A GENERATION AFTERWARD.



# THE NEGRO IN THE DISTRICT OF COLUMBIA.

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## INTRODUCTION.

To determine the position which the negroes of the United States are to occupy toward the civilization of this country is a problem which should engage the sober, serious efforts of all those who desire good government and the stability of society. The solution of that problem is not to be had in ignoring facts about the race, or in hopes that the negroes will return to the homes of their forefathers. They have been in this country for two centuries and a half, they have been influenced more or less by their surroundings, they have formed attachments to the soil which may not easily be eradicated, and, as modern migration is not toward the East, they are likely to remain in the United States. They will either degenerate or advance toward the goal for which the white race is striving; but whatever their tendency, its developments and its results cannot fail to affect the white race, upon whom will largely depend the outcome.

The basis for a proper treatment of the subject is to be had only in the calm, impersonal, scientific sifting of the evidence on both sides of the slave question in all parts of the country, which is hardly possible, perhaps, for this generation; and in the honest, unprejudiced and equally scientific consideration of facts about the condition—social, moral, political, and religious—of the negroes of to-day. Truths may be revealed which may be distasteful, but they must be told if the best interests of this country are to be subserved; and when by earnest and unbiased workers in every section of the country the mass of testimony has been

gathered and classified, the man will probably have been born who will be able to review it in a brief which will find support in united public opinion.

Probably no field for the study of some of the many phases of this great problem presents better opportunities than those to be had in the District of Columbia, the seat of the general government. This territory, inhabited largely by an urban or suburban population, has always been a kind of experimental station, from law-making to rain-making, for the country; and the fact that there was foreshadowed much of the special legislation for the negro which has been embodied in the last three amendments of the Constitution, and that the life there presents many remarkable features and many extremes in various lines of human activity, makes the study interesting and instructive for the investigator. The manifestations of the character of the negro population in the District, which confront the stranger on every hand, were the incentives to the work which has resulted in the following pages, and the aim throughout has been to examine whatever material was available among official documents, the files of newspapers or in other publications, for the purpose of discovering the sources of conditions as they exist to-day, and by personal observation and inquiry among those best qualified to speak, to present those conditions in a light removed from mere theory or personal opinion.

No attempt has been made to deal with the subject of slavery except as reference had to be made to it in determining the standpoint of observation. What may be termed the treatment of the forensic and legislative side of that question has been written by Miss Mary Tremain, of the University of Nebraska, in her monograph entitled "Slavery in the District of Columbia"; but in connection with this should be read the able and conscientious work, "The Negro in Maryland," by Dr. Jeffrey R. Brackett, of the Johns Hopkins University, and its supplement, "Notes on the Progress of the Colored People of Maryland Since

the War." A like Virginia treatment is yet to come. A most valuable contribution to the literature of the antebellum and reconstruction periods is the "Special Report of the Commissioner of Education on the Condition and Improvement of Public Schools in the District of Columbia," submitted to the Senate, June, 1868, and to the House, with additions, June 13, 1871. This volume, which was printed in 1871, contains, beside the results of a census taken in the fall of 1867 by Dr. Franklin Hough, a minute history of the schools for the colored population in the District, prepared by M. B. Goodwin, which has furnished many facts for portions of this monograph, and a compilation showing the legal status of the negro in the country at large in respect to education in 1867.

Other material has been gathered from the Congressional Globe, the Congressional Record, the reports of the committees who investigated District affairs while it was a Territory, acts of the legislative assembly, reports of the Bureau of Education, public school reports, and reports of the District Commissioners, with which are bound the valuable statistics furnished by the Superintendent of Police, by the chief clerk of the department, Mr. Richard Sylvester, by the Health Officer, and other branches of municipal government. The census reports also contain some material, but it is chiefly of a general character, though it may be that the census, with the reports of the Commissioner of Education, will hereafter deal with the subject more minutely and furnish the basis for the true treatment of the problem, the solution of which is so important for both the whites and the negroes.

This study is the result of nearly eighteen months' investigation at the odd intervals of leisure in active newspaper work, and whatever links may be missing or wrong deductions made must not be attributed to the lack of a desire to present all necessary facts and to form an unprejudiced judgment.

WASHINGTON, D. C., *January 18, 1893.*

## I.

### THE BASIS OF OPERATIONS.

In the spring and summer of 1862 three commissioners, appointed under an Act of Congress, were engaged at Washington in a task which was at the same time novel and significant. Compromises of eighty years had given place to force, and while the armies of two great sections were debating on the field of battle the questions involved in slavery, that question was being settled for the seat of the nation's government on a peaceable and equitable basis. It was the turning-point in the career of the negro population of the District of Columbia; it meant freedom and hope for them, and grave doubt and anxiety for the white race, who, confronted with radically changed conditions, could not readily grasp the problems presented to them. Slavery was passing, and in its disappearance were born social, economic, and political questions which to-day, after a generation has passed, are still not settled to the satisfaction of all persons concerned.

To determine the causes of this state of affairs a general idea of the character of the colored race in the District must be had, and this may not be gained by comparing their life of 1893 with that of 1860 without some knowledge of what they were before the war and of the additions to the population during the past thirty years. Slavery, though it furnished the text for many a practical or rhetorical effort in Congress during the early half of the century, cannot be said to have been a cherished favorite of the people of the District, and it is likely that it would have died a natural death long before it was legally executed had the people been left to follow their inclinations, uninfluenced by the reflections at the capital of the contending sentiments of extremists in both sections of the country, or by the fears



excited by such a movement as the Nat Turner uprising in Virginia. This would be apparent, if other evidence was lacking in a study of the statistics of population from 1810 to 1860. In the former year, when the District included the tract ceded by Virginia, the total population was 14,093, of whom 10,066 were whites, 783 free negroes, and 3,244 slaves; in the latter year, in a total population of 75,080, there were 60,764 whites, 11,131 free negroes, and 3185 slaves. The white population had increased more than five hundred per cent., the free negroes more than thirteen hundred per cent., while the slaves had decreased about one-per cent. and three-quarters. Though the increase of the white population had been pretty regular, the greatest advance having been made after 1846, when Alexandria was ceded back to Virginia, and after 1850, when the slave trade was forbidden in the District, while the number of free negroes had increased steadily, the period between 1830 and 1850 showing the greatest ratio of increase, but that following 1850 showing a tendency for the increase to be checked, the number of slaves, which rose to 4520 in 1820 and again to 3687 in 1850, had decreased by 502 in ten years and by 59 in sixty years. In 1810 the slaves constituted 22.97 per cent. of the population of the District; in 1860 they were but 4.25 per cent. of it. However, the laws which formed what was known as the "black code," and which were the embodiments of the negro code of Maryland and Virginia existing in February, 1801, and the subsequent ordinances of the municipalities within the District and the modifications of Congress, had effect not only upon the bondsmen, but upon the free negroes. Though there are instances of extreme harshness in the execution of them, and though no one would tolerate them for a moment to-day, the position which both the slaves and the free negroes as classes occupied at the outbreak of the war demonstrates not only that they had shown a wonderful fortitude and developed traits of thrift and enterprise in the face of the menacing code, but that that code had possessed for the

majority of them, except in the most important matters of education and restriction of personal liberty, the character rather of a menace than of a system of rigorous, unrelenting practice.

Slavery has been abolished, and no persons would be more opposed to its restoration in this country than those who felt its burdens the most; but it had two sides. As the field-hand was a comparatively small element in slavery as it existed in the District, the system there presented what may be termed its more favorable side, and though the slaves may have been restricted in their means of acquiring book learning, they were assisted toward acquiring this weapon of education by the whites in Sunday worship and about the house, especially before the terrors of 1831 which did much to estrange the two races; and in the daily life in the cities they, with their nimble wits, acquired a practical education which may not be had in the mere learning to read and write. On the other hand the free negroes, who were representatives of a superior element of their race and were destined to be a powerful leaven for their fellows, had many advantages in the beginning. "Many of them," says one writer who possessed excellent opportunities to study them, "were favorite family servants, who came here with congressmen from the South and with the families of other public officers, and who by long and faithful service had secured, by gift, purchase or otherwise, their freedom. Others were superior mechanics, house servants, and enterprising in various callings, who obtained their freedom by their own persevering industry. Some, also, had received their freedom before coming to this city."<sup>1</sup> Benjamin Banneker, the negro astronomer, assisting in surveying the District in 1791; Sophia Browning buying her husband's freedom for \$400 from the proceeds of her market garden, and being in turn purchased by him; Alethia Tanner purchasing her own freedom in 1810 for \$1400, and

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<sup>1</sup>Special Report, Commissioner of Education, p. 195.

that of her sister Laurena Cook and five children in 1826; John F. Cook, one of those children, a shoemaker by trade, learning the rudiments of education while a messenger in the Treasury Department, and closing a useful life, in spite of persecution at the hands of a mob, as a minister and educator among his people, and leaving sons to carry on his work,—are but some of the examples of the spirit displayed by the free negroes. Before the date of the Nat Turner outbreak there are evidences that the relations of the two races in the District were of more trustfulness and consequently of greater friendliness than afterward; but, as one of the descendants of a negro who probably suffered most through the feeling against his race fomented by that event, writes, "The darkness that had gathered about him presented an opportunity for the exhibition of a character which, under ordinary circumstances, might never have been seen. The withdrawal of the friendly mite which had been occasionally given and the friendly word aroused a spirit of determination, self-reliance, and irrepressible energy that instantly foreshadowed eventual success."<sup>1</sup> There are also evidences that the mite and the friendly word were not entirely absent in the subsequent years, and the sentiments of the whites toward the negroes in spite of the "black code," and the ability of the negroes to make good even their slight advantages, are proved by their possession, at the outbreak of the war, of \$650,000 in real estate and the support of their own schools and churches.

Such was in brief the condition of the negroes of the District when war, following the election of a President whose views on the question of slavery were well defined, rendered it expedient and practicable for the experiment of emancipation to be made in the District. At the outset of the second session of the Thirty-seventh Congress, in December, 1861, Senator Wilson, whose name will always be associated with those of Grimes, Sumner, and others in

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<sup>1</sup> Public Schools of the District, 1874-75, p. 91.

connection with the efforts on behalf of the negroes of the District and of the country at large, introduced into the Senate a resolution providing that the Committee on the District of Columbia should take into consideration all measures relating to fugitives from service and all laws relating to negroes in the District, with a view to abolishing slavery in the District.

This he followed later with a bill to abolish slavery, and a bill to annul the "black code." The Senator was determined to push matters, and his speech of March, 1862, was an impassioned arraignment of the system which he and others would abolish. The question was debated at great length, and finally the bill abolishing slavery, passing the Senate April 3 and the House April 11, was signed by President Lincoln, April 16, 1862, the free negroes and those who had been placed on the straight road to freedom uniting in their churches in thanksgiving for the act.<sup>1</sup> The act provided that "all persons held to service or labor within the District of Columbia by reason of African descent are hereby discharged and freed of and from all claim to such service or labor, and from and after the passage of this act neither slavery nor involuntary servitude, except for crime, whereof the party shall be duly convicted, shall hereafter exist in said District." A sum of money not exceeding \$1,000,000 was appropriated to compensate owners loyal to the government for their former slaves, it being provided that the average price for each slave should not exceed \$300, and the compensation was not to extend to those persons who were disloyal to the government or who should bring slaves into the District after the passage of the act. Kidnapping was declared a felony, the punishment being placed at from five to twenty years' imprisonment. One point of additional interest about the act was the appropriation of \$100,000 to aid in the colonization of free persons, including those liberated, "as may desire to

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<sup>1</sup> Special Report, Commissioner of Education, 1871, p. 319.

emigrate to Hayti or Liberia or to such country beyond the limits of the United States as the President may determine." Both compensation and colonization, the principles which had prevailed in earlier schemes for emancipation, were still recognized, and the extreme war measure was not yet announced. In that it differed in a marked degree from the measures leading to the Thirteenth Amendment submitted February 1, 1865, and ratified in the following December, and the interests of slaveholders loyal to the government were still protected. As late as July 17, 1862, in an act "to suppress insurrection," etc., it was ordered that the slaves of those in arms against the United States were to be declared captives of war, and that all slaves "being within any place occupied by rebel forces and afterwards occupied by the forces of the United States shall be deemed captives of war and shall be forever free of their servitude and not again held as slaves." The act also provided that no slave escaping to free soil should be delivered unless the person claiming him should be able to prove his loyalty to the government, and that the President should be authorized to provide for the transportation of slaves freed under it or to use them in any way he thought proper to bring the war to a close. Even in his warning of September 22, 1862, Mr. Lincoln clung to the idea of the earlier emancipation, and when the South had refused to heed either the bribes of pecuniary relief or the threats, his emancipation proclamation of January 1, 1863, was declared by him to be "a fit and necessary war measure," and it was to have effect only in the territory actually occupied by the Confederate forces, the document expressly defining them as follows: "Arkansas, Texas, Louisiana (except the parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terra Bonne, La Fourche, Ste. Marie, St. Martin, and Orleans, including the city of New Orleans), Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia (excepting the forty-eight counties designated as West Virginia and also the



counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Anne, and Norfolk, including the cities of Norfolk and Portsmouth, and which excepted parts are for the present left precisely as if this proclamation were not issued").

But while these war measures were being advanced, the disenthralment of the three thousand slaves or more in the District was finding its complement in the careful daily sessions of the three commissioners, Daniel R. Goodloe, Horatio King, and J. M. Brodhead, who had been appointed under the act of April 16 to arrange for the compensation of the owners. They began their inquest April 28, and at the outset were confronted with the fact that they could depend upon no person in Washington to appraise the slaves. "There are few persons," they said, "especially in a community like Washington, where slavery has been for many years an interest of comparatively trifling importance, who possess the knowledge and discrimination as to the value of slaves which are necessary to a just apportionment of compensation under the law." It was, they claimed, difficult to assign value to slaves, and consultation with an experienced dealer in slaves, Mr. B. M. Campbell, of Baltimore, led to the conclusion that "Slaves in fact cannot be said to have had a current saleable value since the commencement of the war; while their intrinsic value on the 16th day of April, as determined by the undiminished value of the products of the soil and the undiminished wages of labor, was not less than formerly. Indeed, in both these respects it was greater, since there has been a constant rise of prices, both of labor and products." Campbell, too, had ceased to purchase slaves since May, 1861, as "all communication with the South was then cut off." He, however, gave the commissioners some figures of his purchases between February 2 and May 18 of that year. Of thirty-seven slaves whom he had handled, the majority of them being in the prime of life, and four being children, the average cost had been \$636.75. Other diffi-



culties in the way of reaching a just average were found in the varying character of the slaves. The chief support of some families had been derived from hiring out their slaves, while in other cases expenses had been reduced by employing the slaves at home. Some slaves were held for a term of years or for the life of the owner, some were securities for the payment of debts, and in some instances there existed an agreement between the slaves and their owners that emancipation was to be given upon the payment of a certain sum. The commissioners finally adopted the plan of classifying the slaves "according to their value before the commencement of the war, and reducing these classes to the average compensation allowed by law." According to their report the whole number of petitions under the original act was 966, of which 909 were granted, 36 were rejected entirely, and 21 were rejected in part. Under an additional act of July 12, 1862, whereby slaves were permitted to file their own schedules, and the right of negroes to testify was emphasized, 161 petitions were presented, of which 139 were granted and 22 were rejected. Later, thirteen claims for twenty-eight slaves, filed by persons who had been prevented from one cause or another from availing themselves of the provisions of the act of April, were allowed, the sum involved being \$7212.50, and the total amount of compensation being kept within the million dollars. The largest amount paid to any one person was \$17,771.85 for his sixty-nine slaves, and the smallest sum allowed for any slave was \$21.90 for a male infant.

It is noticeable that in some cases the beneficiaries under the act were negroes, one man receiving \$2168.10 for ten slaves, another \$832.20 for two, another \$43.80 for one, and another \$547.50 for one, while from the \$4073.40 placed to the credit of the Sisters of the Visitation of Georgetown, \$298.75 were deducted, as that amount had been paid to the Sisters by Ignatius Tilghman toward the purchase of the freedom of his family. The claims for two free-born negroes were not allowed, and some of the slaves were too feeble by reason of advanced years to be of any value.

Mr. Campbell was of great assistance to the commissioners in estimating the value of the slaves, and it is related that his last resort, when very great difficulties were presented, was an examination of the negroes' teeth. The commissioners, as well as the government, were greatly aided also by Mr. W. R. Woodward, upon whom much of the clerical work fell. They had some curious experiences during their labors. For instance, one man brought before them could not give any idea of his age beyond the statement that "during General Washington's war he could catch a horse and feed him"; and when questioned as to the value of his services, indicated that he could plow in one day half as much as an able-bodied man. A case was presented of a slave whose former owner had died, willing his slaves to his wife for her lifetime, and after her death they were to be freed and were to inherit his Maryland farm. Some owners were slow to take advantage of the act, being under the impression that their sentiments regarding the war would debar them; but they were assured that they were really beneficiaries, provided they had committed no overt act against the government. Revelations were made of attempts to evade the law by the removal of slaves into territory not affected by it, and it was shown that one man had transported all his slaves ten days before the act became a reality, to his farm which lay partly in Maryland and partly in the District, and had housed them in a tenement built beyond the District line, to which their daily food was sent by members of the family from the dwelling within the District. Such cases as these led to the supplementary act of July 12, 1862, which provided that "all persons held to service or labor under the laws of any State and who at any time since the sixteenth of April Anno Domini 1862, by the consent of the persons to whom such service and labor is claimed to be owing, have been actually employed within the District of Columbia, or who shall be hereafter thus employed, are hereby declared free and forever released

from such service, anything in the laws of the United States or any State to the contrary notwithstanding.”<sup>1</sup>

Upon the passage of the emancipatory act some slaves left the homes of their former owners to take places elsewhere, some left the District to find work, but others remained to mingle with the thousands of men who had been born free or who had become so without the legal intervention of the government or the exercise of a right founded upon might.

Presently, though, they were joined by others of their race, who had not enjoyed either the comparative advantages of bondage in a city where population was denser, and consequently where a gaining of practical knowledge was easier, or the opportunities of free negroes, though hedged in by restrictions arising from the presence of a slave element. The safeguards against migration from Maryland and Virginia, which had been asked of Congress, had not been provided, and the hegira from those two States to the negroes’ Land of Canaan had begun. It continued for many years, the greatest number of negroes arriving as fugitives, or contrabands, before 1867, and another large inflation of this portion of the population occurring between 1870 and 1874. A comparison of the populations in two decades shows not only the marvelous rapidity with which the negroes flocked to the capital, but also that the fears of 1862 of citizens of the District were not unfounded. Between 1860 and 1870 the population of the District increased from 75,080, of whom 14,316 were negro, to 131,700, of whom 43,404 were negro; and between 1870 and 1880 the population increased to 177,624, of whom 59,596 were negro. Of the negroes in the District in 1870 but 13,448 were natives of the District, while 16,785 had come from Virginia and West Virginia and 11,720 from Maryland; and of the negro population of 1880, Virginia had furnished 19,913 and

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<sup>1</sup>The details of this remarkable transaction are given in full in the report of the Commissioners, Executive Documents, No. 42, Thirty-Eighth Congress, 1st session.

Maryland 12,245,—the natives of the District numbering 24,775.

Midway between 1860 and 1874 a most thorough census of the District was made under the auspices of the Bureau of Education, and the figures appearing in the report of that work are full of suggestiveness. The white population was then 88,327, and the negroes numbered 38,663, an increase of 24,347 in seven years; this increase being largely due to the horde of negroes from the near-by States, whose opportunities for acquiring a knowledge of any occupation save that of manual labor of the simplest form had been limited. The following table will show the situation at a glance. It is formed upon statistics collected by Dr. Franklin B. Hough, though it does not include by any means every one of the interesting details made public by him.<sup>1</sup>

	WHITE.	NEGRO.
Population.....	88,327	38,663
Owners of Real Estate.....	6,485	1,399
Renters of Real Estate.....	8,895	4,595
Voters.....	13,294	6,648
Married couples.....	14,147	5,509
Children of school age.....	21,447	10,246
Children in public schools.....	5,349	450
Children in private schools.....	5,352	232
Unable to read, over 15 years.....	1,812	11,025
Unable to write, over 15 years.....	2,150	12,615
In government service.....	12,690	822
In personal service.....	2,122	3,647
In trade and finance.....	2,052	98
Owning and working land.....	440	245
In arts and mechanics.....	4,503	577
Laborers, etc.....	2,460	3,956
Churches.....	43	14

From the figures in this table, particularly those relating to illiteracy, may be obtained some idea of the character of the population which was to evolve into the people who constitute one-third of the inhabitants of the District to-day.

<sup>1</sup> Special Report, Commissioner of Education, pp. 38-48.

The community in which they had found a home was divided in its sentiments toward the negroes, as it included those who had found at Washington a field for a thorough test of their ideas of philanthropy, those whose sentiments against the negroes had been intensified by their helplessness in the face of the legislation, which they believed was likely to inure only to the disadvantage of the capital, and those who cared neither for the whites nor for the negroes except as possibilities for the furtherance or blocking of their designs. The swarms of adventurers who flocked to Washington in the closing years of the war and later, belonging to the class of whites which found its most congenial home there, were not of a character likely to benefit the mass of ignorance, which found little sympathy among the older residents. Even the negroes themselves had their distinctions, not always well defined, perhaps, but yet capable of being classed broadly as of those who had been free before the war, those who had been liberated in 1862, and those who had entered the District as fugitives or as contrabands of war.

To deal with these diverse elements so as to make them of value to the community, instead of causing them to become drawbacks, was a problem requiring all the tact, wisdom and judgment of statesmanship. To its solution, however, were too frequently brought partisanship and enthusiasm lacking reason or experience; and when the movements of the past generation are calmly reviewed, the only conclusion is that of astonishment that the negroes, in spite of dissensions among themselves, neglect or hostility on the part of some of the whites, and short-sighted efforts in their behalf by would-be friends, have reached the advanced position in which some are able to maintain themselves to-day.



## II.

### APPLYING THE LEVER.

If the negroes in the District before the war can be said to have been remarkable in any respect, they were so in their desire for education; but in this they received comparatively little encouragement from the authorities. Indeed, the expansion of population consequent upon the war was necessary to make the white public school system of the capital an important factor in municipal life. Although the movement for the public instruction of children had begun in 1805 by trustees, with Thomas Jefferson as their president, many causes contributed to its unpopularity, as shown in 1840 in the attendance of 776 children upon private schools and but 213 upon public ones, and in the expenditure of but \$257,721.74 for the system during the eight years immediately preceding the war. Whatever benefits were to be derived from the system, though, were not extended to the free negroes, and at the outset they were obliged to depend mostly upon their own resources for acquiring knowledge, supplemented by the efforts of earnest men and women, who labored principally in the Sunday schools, where provision was made for negro children. With an energy surprising, when viewed against the background of their antecedents, the negroes determined to gratify their thirst for knowledge, and within a few months after the first two public school-houses had been built the first school for negroes was opened in 1807.

It was built by three men, recently emerged from slavery,—George Bell, Nicholas Franklin, and Moses Liverpool, and was taught by a white man named Lowe. Others were started later, the occasional admission of a negro to a white private school not apparently meeting the requirements of the case; an attempt at a free school was even made, and



after the line of demarcation between the whites and negroes had been for the first time sharply drawn in the Sunday schools, the number of private schools for negroes increased and their scope widened, until, at the outbreak of the war, when the negro population of school age was 3172, it is estimated that 1200 were in the schools. Though white teachers at first were the principal teachers, intelligent negro men and women gradually took their places, until the instruction by the whites was limited to such schools as that of Father Vanlomen, in Georgetown. Their schools ranged from the mere primary ones to those in which the higher branches, French and music, were taught, and the prospectus of one of the latter displays the spirit which animated such undertakings. "The object of this academy," wrote Arabella C. Jones in her prospectus in 1852, "is of great importance, particularly to those who are devoid of schools in their vicinity, and also to society at large. Here the poor are educated gratuitously, the orphans clothed, educated and a good trade given them. Females in this age are naturally destined to become either mothers of families or household servants. As mothers, is it not necessary that they should be skilled in habits of industry and modesty, in order to transmit it to posterity? As domestics, should they not be tutored to the virtues of honesty, integrity and sobriety? Last, though not least, many of our citizens of color are emigrating to Liberia, and it is necessary, as well-wishers of our race, that our children be well educated, in order to impart their knowledge to the illiterate."

This was originally quoted by M. B. Goodwin, who has preserved for the future student the story of the labors of the founders of the negroes' educational system at the capital and of such pioneers as William Costin, Louise Parke Costin, Henry Smothers, John F. Cook, Myrtilla Miner, Arabella Jones, Mary Wormley, Alexander Hays, John H. Fleet, Charles H. Middleton, and others, who in spite of hardships, drawbacks and at times persecution of

one shade or another, struggled persistently toward the light, and justified the conclusion that "it is worthy of observation, also, that in no case has a colored school ever failed for the want of scholars. The parents were always glad to send their children, and the children were always ready to go, even when too poor to be decently fed or clothed. When a school failed it was for want of money, and not for want of appreciation of the benefits of education."<sup>1</sup>

This eagerness was marked when, in 1862, emancipation of the slaves was followed by the first step taken toward the real emancipation of the class of which the slaves formed a small proportion. The question of the public support of schools for the negroes had been mooted in 1848 and 1858, but had never reached any definite shape until coincidentally with the debates on the freeing of the slaves were considered measures for the education of their race, and within a little more than a month after the act of emancipation of April 16, 1862, its fit complement was had in the acts initiating a public school system for the negroes. This movement was remarkable in more respects than one. In the first place it was not born of legislative sentiment alone, for, upon the development of opposition, energetic negroes, including some who were at the time interested in private schools, went to the trouble of collecting statistics proving that their demands were reasonable; the most striking fact evolved, perhaps, being that to which Senator Grimes alluded on April 29, that the negroes were paying \$3600 taxes upon \$650,000 worth of real estate, and that they were sharing the tax of ten cents on every \$100 devoted to the support of white schools exclusively. Another curious feature was the enactment of a school law for the county section of the District one day in advance of that for the cities of Washington and Georgetown, inasmuch as an effort to establish a white public school system in the county in 1856 had proved ineffective because it was not

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<sup>1</sup>Special Report, Commissioner of Education, 1871, p. 222.

ratified at an election in which women were allowed to vote and in which they cast their ballots generally with the opposition. The act of May 20, 1862, provided for a tax of one-eighth of one per cent. upon the property of negroes outside the cities for the support of schools for their children; and that of May 21, 1862, ordered that ten per cent. of the tax levied in the two cities upon negro property should be devoted to negro public schools. In the county the funds were to be under the control of seven trustees for all the schools, and in the cities under the control of the trustees of the white schools. Both acts proved ineffective, even though, to set at rest all apprehension about the disposition of the separate fund in the cities, three trustees for the negro schools in Washington and Georgetown were appointed by the Secretary of the Interior under an act of July 11, 1862; and in 1864 another act became the fundamental law for the whole District. This provided that the authorities should set apart each year from all the funds received for educational purposes "such proportionate part thereof as the number of colored children between the ages of six and seventeen years in the respective cities bear to the whole number thereof, for the purpose of establishing and sustaining public schools in said cities for the education of colored children," and a similar arrangement was made for the county schools. In the two years following the original act for the cities but \$736.86 had been credited to the separate school fund, and it was not until March, 1864, that the first public school for negroes was opened in a negro church, and not until the next year that the first building for school purposes only was occupied. The local authorities still construing the act in a manner different from the advocates of the negroes, Congress, by act of July 23, 1866, ruled that the act of 1864 should be so construed "as to require the cities of Washington and Georgetown to pay over to the trustees of the colored schools of said cities such a proportionate part of all moneys received or expended for school or educational purposes in said

cities, including the cost of sites, buildings, improvements, furniture, books, and all other expenditures on account of schools, as the colored children, between the ages of six and seventeen years in the respective cities, bear to the whole number of children, white and colored, between the same ages; that the money shall be considered due and payable to said trustees on the first day of October of each year; and if not then paid over to them, interest at the rate of ten per centum per annum on the amount unpaid may be demanded and collected." It was also arranged that contributions from persons disposed to aid in the education of the negro should be kept distinct from the general school fund.

While as late as November, 1867, the trustees of the negro schools were complaining that they had been hampered by the refusal of the corporation of Washington to execute the acts of Congress relating to the schools, affairs in the county had progressed much more smoothly, especially after an appropriation by Congress, on July 28, 1866, of \$10,000 to purchase sites and erect the necessary buildings; and the negroes' schools fared as well as the whites', an estimate of expenditures from 1864 to 1870 showing that the former had received \$43,057.73 and the latter \$50,721.91, and the former class of pupils having really the better accommodations.

During the earlier years of the war, when the migration to the capital of contrabands and refugees began, efforts were made to reach them in schools. The first school devoted exclusively to slave children was opened in the county in August, 1861, by a negro woman, but the next year the American Tract Society began its work among the contrabands, and its example was followed by the American Tract Society of Boston, the American Missionary Society, the Pennsylvania Freedmen's Relief Association, Volunteer Teachers' Association, the Philadelphia Friends' Freedmen's Relief Association, the African Civilization Society, the Reformed Presbyterian Mission, the Old School Presby-

terian Mission, the New York Freedmen's Relief Association, the New England Freedmen's Aid Commission, the New England Freedmen's Aid Society, the New England Friends' Mission, the Washington Christian Union, the Universalists of Maine, and others. Their work was carried on in the basements of negro churches, in temporary barracks and other makeshifts, and extended to men, women and children. At first there were dissensions, which, however, were removed, and finally through the efforts of A. E. Newton, who was, in 1867, appointed superintendent of the negro public schools by the trustees, the cooperation of all the interests was secured and the way was paved for the public schools continuing the work of the relief societies, when all but one withdrew their aid in 1868. Great aid was given at this period by the Freedmen's Bureau, which, not limiting its assistance to schools for primary instruction, did much toward the establishing of Howard University, which was incorporated March 2, 1867, and in which no distinction was made on account of race, color or sex, though it had originally been intended for the education of negro men alone.<sup>1</sup>

Some of these schools were open by day and some by night, the total number of day schools in May, 1864, including one public school, being 12, with 23 teachers and 1200 pupils, and in 1867 being 62, with 80 teachers and 4228 pupils, the trustees of the public schools at that time controlling 5 schools, with 7 teachers and 450 pupils, and the total sum received from the North between 1863 and 1867 amounting to \$135,000. At this time the extremes of the negro race were represented in the schools, and while in one private institution in 1868, of fifty pupils, 16 were taking music lessons, two years before Miss Susan Walker had been subjected to indignities in the conduct of her school which will bear comparison with the violence of "a set of

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<sup>1</sup> Wayland Seminary, an institution still influential, was organized during this period.



ragamuffins" of 1835, the annoyances of negro children from white youths at a subsequent period, and the treatment of some of those connected with Howard University in its earlier history. The chronicler tells it in this simple language: "December 1 the school was opened in one of the barrack buildings, and soon Miss Walker had under training, six hours a day, about 70 scholars, mostly women, who were taught various kinds of plain sewing, she preparing the work for them, cutting the garments, etc., in the evening. As these women could not afford to take the time even for instruction, unless receiving some remuneration, Miss Walker adopted the plan of paying them proportionately from the articles of clothing made. In September of the next year, 1866, a regiment of cavalry took up its quarters near her school, causing her great annoyance and much anxiety, as well as disturbing the school work. The officer in command gave her assurance of the fullest protection, but the soldiers finally broke into the school-house and destroyed or took away private property and private papers,—a summary way of declaring their creed on the subject of educating contrabands."<sup>1</sup>

The conferring of the suffrage upon the negroes and the accession to the mayoralty, in June, 1868, of one of their particular friends, was followed by further agitation in Congress for their schools, and in the summer of that year the Senate, under a misunderstanding of the wishes of the negroes, passed a bill abolishing the offices of separate trustees, and the matter being forgotten in the lapse of several months, the same measure was passed by the House in February, 1869. Immediately the negroes were aroused, and they flocked to their old rallying points, the churches, and set forth their wishes in strong resolutions. They feared that the removal of negro trustees would bring about the same condition of affairs as had made the act of July 11, 1862, a necessity, and that the existence of the schools

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<sup>1</sup> Special Report, Commissioner of Education, 1871, p. 242.



would depend upon local politics alone. There was some little hesitation about taking this stand, because some thought that the negroes might be considered as opposing Congress; but the final resolutions looked to a change in the whole system, which was thought to reflect distinctions in race and color. In view of the position of the negroes of the two cities, President Johnson vetoed the measure, and called the attention of Congress to the statement that the trustees for the negro schools, two of whom were negroes, had given satisfaction to their constituency, and therefore he saw no reason for transferring their duties to others. It was at this time, when the negroes had begun to be prominent in the police and fire departments of the city and in other phases of municipal life, that the question of mixed schools was incontinently agitated, culminating in a debate in Congress in the early spring of 1871, in which the effort was unsuccessfully made to remove all restrictions on account of color from all the public schools, and which also produced the statement in the Senate that for eighteen months or two years the board of trustees for the negro schools had been in a controversy among themselves, "fighting constantly at their meetings," the latter clause not meaning, of course, that they had come to blows.<sup>1</sup>

Under the territorial government which followed this debate, some modifications were made in the administration of the negro schools. Under an act of the Legislative Assembly of March 3, 1873, George F. T. Cook, who had been chosen in 1868 superintendent for the negro schools and who still occupies that position, was appointed superintendent by the Governor, and his report began to appear with that of the superintendent of the white schools, the trustees were increased in number to nine, and the acts of Assembly laying a tax for education, instead of specially designating the amounts for the two systems, read "for the support of public schools, including colored schools," though

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<sup>1</sup>Congressional Globe, 1871, pp. 1054-1061.

in expending the funds the proportion of white and negro pupils to the whole school population appears to have remained as a basis. The abolition of the experiment in 1874 produced other changes. At that time there were more than forty school trustees for four different systems of schools,—twenty for the white schools of Washington, five for the white schools of Georgetown, nine for the negro schools of Washington and Georgetown, and seven for the white and negro schools of the county. The three Commissioners of the District appointed by the President consolidated these boards in August, 1874, into one board of fifteen members, increased, however, in the next month to nineteen, to the great benefit of the schools resulting from a uniformity of supervision, discipline, text-books and methods of instruction, there being some slight modifications to suit peculiar conditions; and while the white superintendent was given oversight of all the white schools and the negro schools of the county, the negro schools of the two cities remained under their own superintendent. The same administration continued when the form of government for the District crystallized in 1878 into its existing form; but since July 15, 1882, the board of trustees has been composed of but nine members, three of them being negroes; and from one of seven divisions in 1879, the growth of the negro school had, by February, 1891, made necessary three divisions, with a supervising principal in each, the eighth division having been created in the session of 1882-83.

During the thirty years from the time when Congress first took a hand in the negro school affairs, they have advanced almost as rapidly as the white schools in points of attendance, administration and methods of instruction. Though the first teacher of a negro public school in the District was a negro woman, with a white woman as an assistant, the problem about the proper kind of teachers was at first similar to that presented in the negro private schools before the war. In the first ten years of the system the teachers were in a great degree white women from the

North; but the change from white teachers to negro was begun in the sixties, in 1869 the fifty schools being equally divided among them. At that time but eighteen of the negro teachers were natives of the District.<sup>1</sup> At present all negro schools have teachers of the negro race. The schools originally of a primary character gradually enlarged their field; between 1871 and 1875 there was a preparatory course advanced beyond the grammar schools, and in 1876 the colored High School graduated its first pupils, and has since sent its graduates to Cornell, Howard, Harvard universities, the University of Michigan and Oberlin College; while the Normal School, which began operations a few years later, has furnished material for teachers of the local schools. The teachers of reconstruction times had realized the necessity for some sort of manual training among their pupils, and this idea was later incorporated in the public school system and in the institutions for higher education. Drawing was introduced into the public schools in 1875, and the establishing in 1880 by Mrs. Woodbury of the First Mission School for cooking, with the subsequent organization at Washington of the National Industrial Association, gave an impetus to this most important branch of teaching. In 1883 industrial training became a part of the

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<sup>1</sup> A curious commentary upon the situation at this time is had in the circular of the trustees, issued in September, 1869. They said: "It is our determination to elevate the character of the schools by insisting on a high standard of qualifications in the teachers. This can be done only by employing the best teachers that our money will procure irrespective of color. While we think it right to give preference in our schools to colored teachers, their qualifications being equal, yet we deem it a violation of our official oath to employ inferior teachers when superior ones can be had for the same money. It is no discredit to admit that the number of colored teachers, at least in this District, who can compete successfully with those of the hitherto more favored class, especially those from the Northern States, is at present small. When our young men and women shall have enjoyed equal advantages for a sufficient length of time, we may expect this will be changed." Special Report, Commissioner of Education, p. 257.

curriculum of Howard University, and the demands of this branch of instruction have so increased that a separate building is now devoted to it for the pupils of the preparatory and normal departments. The outfit includes a carpenter shop, tin shop, bookbindery, tailor and shoe shops, kitchen, and printing office, from which is issued monthly *The Howard Standard*. The other departments of the institution, which in 1892 had 562 pupils, are theological, medical, law, and collegiate, the students being confined to no race, sex or color, but including whites, negroes, West Indians, and coming from such extremes as Africa and Japan.<sup>1</sup>

Manual training was introduced into the High School in 1886, where also at present the boys have the advantage of a military drill, and instruction in physical culture is given in the primary and grammar grades. The system of manual training as extended through the different grades embraces drawing, clay modeling, paper cutting, cooking, carpentry, turning and metal work, and it has not only been of great advantage to the pupils, but the results have demonstrated the capabilities of the negro race in this direction to the satisfaction of those who have watched its growth.<sup>2</sup>

The schools which, with the assistance of the relief societies, had pupils of three generations at once, have evolved into a system devoted entirely to children, and from one school, with forty pupils in 1864, the negro schools have

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<sup>1</sup> An account of the history of industrial training at Howard University, by Prof. W. P. Mitchell, is given on pp. 330, 331 of Part II of the publication just issued by the Bureau of Education on "Industrial and Manual Training in Public Schools."

<sup>2</sup> Isaac Edwards Clarke, in commenting on their exhibition, said: "The step from the condition of their original African barbarian ancestors to the present development of these children of American freedom is a long one, and one the study of which, of interest to all students of ethnology, must be of surpassing interest to those who hope for the progress of all mankind. How much of this evolution is to be attributed to the result of the two centuries of training and association of these native Africans and their children

increased to more than two hundred schools, with 14,490 pupils, while the attendance upon private schools has decreased from 1200 to about 650, with 410 in parochial schools. The trustees, though, have failed to be entirely satisfied about the work which is being done for the education of the negroes, and the president of the board in 1891 wrote as follows on this point:

"The seventh and eighth divisions embracing the colored schools of the city have been a subject of serious thought with the whole board of trustees. The question has been asked by the best class of colored citizens and by others who feel a deep interest in the success of their schools, 'Are we getting the best results obtainable for the expenditure of means?' From the best information that I, as the president of the board of trustees, have been able to obtain, I am clearly of the opinion that we do not. I have been visited by and have consulted with the most intelligent and educated of the colored citizens, with whom it has been a subject of anxious thought. 'What,' say they, 'shall we do to improve our schools? We know that we are not obtaining the best results; we are not abreast of the white schools, nor do we yet expect to be; but we are too far behind them, and such should not be the case.' We have intelligent, earnest men in the board of trustees, representing more nearly the colored schools, who give their time and personal supervision to the schools of their respective divisions. Yet the work is not what it should be. There must be a reason for it. Some of the supervising principals and teachers of

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with their white masters under the hard conditions of slavery, and how much is solely due to the inspiring influence of freedom during the past quarter of a century, is a problem in equity, for the relative proportion of credit due to each were not easy justly to apportion. It may not be denied, however, that the average slave of 1860 was, in all that makes the civilization of a race possible, far in advance of his savage kin in Africa. If in nothing else he was advantaged, he had in the acquisition of English as his native language, gained a priceless possession, a master-key to all knowledge." *Industrial and Manual Training in Public Schools*, pp. 248-249.



colored schools are men fully capable by both education and culture to lift these schools to a higher standard than they have yet attained. But there seems to be a something somewhere that prevents it. What is it? I submit this question to the consideration of the Commissioners of the District."

As far back as 1873 the trustees, recognizing that humanity as well as public interests demanded that provision should be made for educating those who had been given the responsibilities of citizenship, discovered that the work of the schools was hampered by home influences, the parents being unable to discipline their children properly or to supplement the studies at school with home instruction; and in spite of nearly twenty years of labor, somewhat similar conditions were the subject of comment by the superintendent of the negro schools in 1891. This opinion was to the effect that difficulty in training the children to the correct use of language was due to "the large and constantly opposing forces of the home and its association." And to the absence of a cultured home, which is not the growth of a generation, is traced the disproportionate amount of illiteracy among the negroes in spite of the equipment of their public schools, the conduct of night schools during certain months, the gradual introduction of free books in the different grades, the gathering of libraries in the different schools, aggregating 3000 volumes, through the individual efforts of teachers and pupils, and the general results which should be expected from additions each year to the community of graduates of the high school. At times the school authorities squint toward compulsory education, which is permitted under the act of 1864; but this has never been executed because the attendance upon both the white and negro schools has been fully equal to the provisions for it, and since the two systems have been operating with as little friction as possible, the number of negroes in the schools has been in the same proportion to their portion of the population of school age as the attendance upon the white



schools has been to white children between the ages of 6 and 17 years.<sup>1</sup>

In the report of the Commissioner of Education for 1886 the fact was noted that while the attendance upon the white schools was maintained in all the grades, that upon the negro schools diminished as the grades ascended. This gives the clue to a partial explanation of the failure of the negro population to be benefited by the system equally with the whites, and behind it is the bed-rock reason,—the poverty of parents and the necessity for many of the children to aid in some way in supporting the family preventing them from pursuing the whole course and even from remaining in school during a year at a time. Figures of the police census of June, 1892, throw a flood of light upon this situation. In that year the white population was 173,610, of whom 36,272 were of school age, 30,085 of whom were at school and 2948 were earning wages. But the negro population, 84,821, furnished a school population of 18,726, with 13,041

<sup>1</sup>The following table is a good basis for a comparison of the statistics of white and negro schools since 1880. In the white schools' statistics are included the negro pupils in the county schools, their number being as 1 to 23 of the whites, and the Normal School is omitted from the negro statistics.

Year ending June 30.	PUPILS.			TEACHERS.		
	White.	Negro.	Total.	White.	Negro.	Total.
1880	18,378	8,061	26,439	306	128	434
1881	19,153	8,146	27,299	327	134	461
1882	19,031	8,289	27,320	342	143	485
1883	19,836	8,710	28,546	358	147	505
1884	21,221	9,167	30,388	371	154	525
1885	21,267	9,598	30,865	393	162	555
1886	22,198	10,138	32,336	421	174	595
1887	23,073	10,345	33,418	438	182	620
1888	23,810	11,040	34,850	466	188	654
1889	24,594	11,170	35,764	496	197	693
1890	25,468	11,438	36,906	534	211	745
1891	26,354	12,132	38,386	569	226	795
1892	30,085	13,041	43,126	612	283	895

at school and 2870 earning wages. The fluctuations in attendance, though, seem to be lessening each year, and the advance in material welfare of the population indicated thereby may so extend as to place the attendance through the whole system on a plane with that in the white schools.

Lack of culture and wealth among the great body of the negro population may account in part for the inability of the negro children as a class to be equal in literacy to white children of the same age; but another drawback may be found in the teachers. More than once have the trustees made a point of commending the attainments and capabilities of the present superintendent, and in 1879 they had this to say in commenting upon the satisfactory condition of the negro schools:

“Nor can it occasion surprise that such should be the case to those who have acquainted themselves with the extraordinary ability and unremitting zeal exhibited by the superintendent of the colored schools in the administration of the affairs of his peculiar department. To properly appreciate the high order of talent and the degree of industry which have characterized the performance of his official duties, it is to be borne in mind that his task, because of the former anomalous relations of the colored schools to the rest of the system, has, from its inception, been eminently creative and largely dependent for its successful accomplishment upon the resources of his unaided genius. To his personal efforts is to be attributed the rapid advance made, in recent years, by that department of our public schools and its entire harmony with the general scheme of instruction.”

These qualities of the superintendent are his rightly by inheritance, and they are manifest in the comprehensive reports which he furnishes each year. He early realized the advantages to be derived from the opportunities for local training of the teachers for the local schools of their own color, but has not been backward in criticising imperfections

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<sup>1</sup> Public School Report, 1878-79, p. 17.

in the Normal School results. A negro critic of his race, at a recent meeting, made this statement: "Make a colored girl a school-teacher, and when she draws her first month's salary she refuses to speak to other girls." This was an exaggerated statement of a germ of truth which finds partial confirmation in the report of 1889 of the principal of the Normal School. Her observation was that young negro girls too frequently chose teaching as a profession without due regard to its importance, and that their disappointment about obtaining positions, resulting in their passion getting the better of their judgment, did not tend to "the moral elevation of either pupils or school." On this same line the superintendent, believing that the average product of the Normal School is good, has had occasion to observe in 1890 that the graduates lacked experience, and more or less "that more pronounced personal and moral character whose growth is conditioned by maturer years, and which, in itself, presents an embodiment of those virtues whose silent influences in the school-room contribute so largely to the proper bent of youthful character."<sup>1</sup>

These defects in the teaching class, however, are counteracted in part by the enthusiasm of individuals, and in criticising existing conditions it must be remembered that hardly a generation has passed since the means of any public education were given the negro race in the District, and that the history of the race in this country before that time reveals very little of the mode of life which would be likely to produce either a teaching or a learning class; but the spectacle of elderly persons in the night schools, of newsboys seeking at odd moments to acquire at Howard University the rudiments of an industrial training, and of pupils in the other schools bringing their breakfast to school in order to be prompt in attendance, not only indicates that the race has lost none of the eagerness for learning which characterized it in antebellum days, but also is full of promise of greater development of the schools in the future.

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<sup>1</sup> District Commissioners' Reports, 1889, p. 979; 1890, p. 972; 1891, p. 910.

### III.

#### STRIVING FOR EQUALITY.

Under the old régime, free negroes in the District were affected not only indirectly by the laws referring to their kinsmen slaves, but also by special municipal legislation directed against themselves. The nine or ten o'clock curfew, though evaded at times, the provision in Georgetown against assemblages, though not rigidly enforced, the prohibition in Alexandria of separate places of worship, the hardships of registry and of the presentation of satisfactory evidence of freedom, and the limitation of license to engage in business, reflecting the feeling of citizens against migration into the District of free negroes, were some of the evidences of the inequality before the law of negroes with whites, and were drawbacks to the possibility of negroes attaining the semblance of mental or material equality with the dominant race.

The wholesale emancipation of the slaves had not in itself tended to benefit them materially, nor had it been of value to those who had previously been free, for the old restrictions, born of the custom of centuries or of the exigencies of particular occasion, were still in force. The slave had become free, but neither he nor his brother had become a freeman either in the strict sense of the word or before the law.

It was the purpose, though, of the negroes' advocates to correct, as far as possible by law, the remarkable fallacy of American institutions that all men are by nature equal, and in addition to making the slaves free, to make them and their fellows freemen. Senator Wilson had aimed at this in his bill of February, 1862, to abolish the black code. He was ceaseless in his activity, and finally found a shorter route to his desire, in the amendment which very appropri-

ately he had added to the bill of Senator Grimes, providing for education of the negroes, which became a law May 21, 1862, and which provided that all negroes in the District should be amenable to the same laws and ordinances as whites, that they should be tried for any offenses in the same manner as whites, and that upon conviction they should be liable to the same punishment, and all laws inconsistent with the act were repealed. So much was accomplished, in a few words, toward relieving the negro of the inequalities in case of his arrest; but it was only a beginning. As the admission of negro testimony had been varying, it was necessary to define and expand it more thoroughly than had been done in the emancipatory act, which in that particular case permitted the testimony of free or slave negroes; and accordingly, to Mr. Wilson's bill of July 12 was appended Mr. Sumner's motion that "in all judicial proceedings in the District of Columbia there shall be no exclusion of any witness on account of color," the principle which a few years later was extended to the federal courts of the country. The right to serve as jurors was not conferred until the passage of the omnibus bill of rights of March, 1869, which also gave the negroes the right to hold office, a complement to the right of suffrage given them several months previously.

But these were not all the measures urged upon Congress for the particular class who had become in more senses than one the protégés of the government. The tendency to distinguish against them in public conveyances, which has in more recent years found practical application in some quarters in separate cars for negroes, was manifest at that day. But the supports of this tendency were one by one cut away. The Washington and Alexandria Railroad Company, wishing to extend its line into the District, came before Congress for an enlargement of its charter, and this enabled the Senate to amend the bill, which became law, March 3, 1863, so that no distinction against negroes should be made in the cars. In the meantime the far-seeing capi-



talist, recognizing the advantages of obtaining valuable franchises on easy terms, had begun to operate street cars in the city, and the Washington and Georgetown Company, which was chartered in 1862, in deference to prevailing sentiments of the whites and the demands of negroes, had provided separate cars for the latter. This was one of the distinctions which Mr. Sumner would abolish, and he saw his chance for a beginning when the Metropolitan Railroad Company came forward for a charter. This was granted July 1, 1864, but it carried with it a provision that in operating the road there should be no regulation excluding any persons from any car on account of color. This was the wedge upon which he labored for a few more months, and although his efforts were unsuccessful when he first attempted to apply the same rule to the Washington and Georgetown Railroad, he was victorious in his second essay, and when the Metropolitan charter was amended March 3, 1865, it had a rider inserted applying the non-exclusion principle to every other railroad in the District.

The culmination of this legislation was the municipal act of June 10, 1869, which prohibited distinction on account of color in places of public amusement, hotels and similar quasi public resorts, and it must be said that by that time the impression seemed to prevail among the negroes, particularly those who had not been inhabitants of the District for many years, that if any distinction was shown it was against the whites.

There is no doubt that both parties in Congress had their extremists, and on a careful reading of some of the debates one is forced to the conclusion that while, on the one hand, if such a thing had been possible, some would have passed a law changing the color of the skin of the negroes to white, on the other hand would have been found others willing to enact a law that the special advocates of the negroes should change their complexion to black. The negroes may have been unanimous in their desire for such special legislation, but that the leaders were at times mis-



taken in their zeal is apparent from the incident of 1868-69, regarding the public schools trustees, and the debate on the separate street cars showed that even among those who were specially friendly toward the negroes was not always a thorough understanding as to the most expedient course of action. Again, in 1871, the radical efforts for equality found expression in the bill providing that "no distinction on account of race, color or previous condition of servitude shall be made in the admission of pupils to any of the schools under the control of the Board of Education, or in the mode of education or treatment of pupils in such schools." The debate on this bill, which was introduced too late to become of value, as the change in the form of government for the District was about to be made, illustrated the extremes of opinion on the subject, and proceeded far enough to effect the elision of the idea of mixed schools by an amendment substituting for the words "the admission of pupils" the words "in providing the means for the education of pupils."

Since that time the real struggle for equality has been continued. When upon the District were conferred the rights of territorial government, much of the time of Congress had been devoted to legislation affecting the negroes, with the result that according to law they had equal rights with whites at the polls, in the courts, in the street cars, in places of public amusement and entertainment; the provision for the instruction of their young by the government was upon the same basis as that for the white children, and in one institution, the protégé of the Freedman's Bureau, was absolutely no distinction of race, sex or color. This condition of affairs was advantageous for them, but yet contained an element of disadvantage. The theory of the legislation in their behalf may have been perfect. It may have seemed only logical, in accordance with the accepted principle underlying American institutions, to clothe the new element in American life with all the rights and privileges hitherto enjoyed exclusively by the whites. But an appar-

ently logical conclusion may easily be demolished when it is discovered that the premises are wrong. Just as the original idea of immigration to this country, eminently proper at the time, has been perverted to such a degree that the welfare and happiness of great cities, if not of the whole country, are threatened until it is recognized that under existing circumstances the idea has an element of radical wrong in it; so, while the changed conditions of negro life at the capital might justify every act protecting them in their civil rights, the same act twenty-five or thirty years ago may have been most unwise and evil in its tendency.

The safest legislation, the legislation most likely to benefit the greater number in a civilized community, is that which incorporates the sentiments of that community, and not those of persons who reason that because a law works no ill in one section of the country it will be beneficial in every other section no matter how the economic and sociological conditions may differ. A premature law, that is, a law forced upon a people instead of springing from them, may not always be pernicious in its effects, but it is a dangerous experiment. That the equalizing before the law of the negroes with the whites in the District did not result in greater disaster than the outgrowth of the experiment in suffrage, is due not only to the comparatively well disposed nature of the new population in spite of their previous disadvantages, but also to the fact that influence of the weight of government at the capital, with its many ramifications, was a tremendous power against action, had the desire been formulated by any mass of citizens to bring the law into disrepute. At the same time the imposition by Congress of such legislation upon the community against the wishes of the native white portion of it, who knew from experience and long association the character of their negro neighbors, did not inspire them to aid the negroes in their evolution, and served also to harden the distinctions in personal relations which had been drawn as soon as the negroes had ceased to be a comparatively insignificant element in the life of the capital.

In the early days at Washington the two races had been nearer each other in various ways than they were in 1860. Their separation before the war cannot be said to have been due primarily to the difference of color or to prejudice arising therefrom, though it may have been hastened thereby. The transfer of the colored people from their quarters in the white churches and Sunday schools to their own edifices was not solely the result of the alarm of the whites after 1831, but was according to a natural tendency of the negroes, just as of any other class in a city, to associate more and more with those who were bound to them by a community of race, social and material interests, when unusual influences do not prevail. The same principle has obtained since the war among the mass of negroes, though seeming contradictions, which may be explained by the presence of a mixed population in the District, have been made at times and exist at present. The failure of a negro to obtain admission to the law department of a white institution has not interfered with his subsequent appointment as a special attorney under the District government. The controversy over his application for admission to the law school was paralleled by that which arose over the pioneer attempt of a negro to become a member of the local typographical union. He, however, was ultimately successful, and his example was followed by others of his race, while to-day the barbers' assembly, in which no line is drawn, has a negro as its executive. It is also stated that when several years ago the white printers upon one of the papers at the capital went on a strike, the members of the colored washerwomen's union did what they could to aid them by practically boycotting in their small way some of the tradesmen who patronized the newspaper.

There is probably less distinction between the races among some bodies of organized labor than in any other of the many relations of life. In the professions the lines seem to be strictly drawn, as a rule, and this may be illustrated by an incident of quite recent date. For some years negroes have

at intervals attempted to become members of the Medical Society of the District. They have been unsuccessful. The latest candidate of prominence was Dr. Forman J. Shadd, a light-complexioned negro, born in the District, a graduate of Howard University, house surgeon at the Freedman's Hospital and lecturer on medical jurisprudence. In the spring of 1891 the members of the Medical Society received the following anonymous message on postal cards:

"Dr. F. J. Shadd, resident physician at the Freedman's Hospital, is a candidate for membership in the Medical Society. The election will occur Wednesday, April 1. Dr. Shadd is well and favorably known as a man and a physician. Indirectly he has furnished much interesting material for the Society. It will be a just and manly act to elect him. His friends are urged to be present."

On some of the postal cards was added in lead pencil the single word "colored," and this in part was the reason for an unusually large attendance of the members at the meeting, which was expected to be stormy, but the full proceedings of which were protected by its secret session. Nineteen persons were presented for membership, and of these eleven were admitted. With one exception the names of all those whose applications were refused were placed on the list below that of Dr. Shadd. Five were graduates of Howard University, and the vote on their application ranged from 16 to 29 in favor of them to 23 to 37 against them. One of the members explained afterward that the failure of the other Howard graduates to enter was due to a feeling that at the next election their votes would be given for Dr. Shadd. Commenting on the result, Dr. Shadd said: "The result is not unexpected. Several years ago two other colored men were voted down by the Society, which is a sort of close corporation. I did think, though, that the question of admission would depend upon a man's merit and attainments, and not upon his color. Yes, I shall keep on applying until I am elected a member. I know nothing about the anonymous postal card." The matter did not



really end there, but came before Congress in April, 1892, when the District Committee of the Senate was instructed to investigate into the truth of the report that the Medical Society discriminated against colored physicians or physicians who had been or might be teachers in Howard University.<sup>1</sup> Dr. Thos. G. Smith, the corresponding secretary of the Society, and Dr. Charles B. Purvis, the physician at the Freedman's Hospital, were heard by a sub-committee. From the report of the committee it is learned that Dr. Smith said frankly "that the color line was drawn tacitly in the Medical Society, and that no colored man can be elected a member. This result was not reached by any formal action in respect to color, but simply resulted from the fact that when the name of a colored man was up the individual members exercised their privilege of voting against him, as they would vote against a white man who might, for any reason, be objectionable to them.

"Dr. Smith said that the Society could not and did not attempt to keep colored men from practising the profession of medicine, but did keep them from the meetings at which papers were read and medical matters discussed in a semi-social manner. The fear was that the presence of colored members would introduce discord in the meetings, and that so many members, especially among the older ones, would withdraw that the Society would be broken up. Objection was also made to both white and colored graduates of the Howard University Medical School, because they attended a school where the fees were lower than at other schools in the District.

"Dr. Purvis testified that some twenty years ago he and Dr. Augusta applied for membership in the Medical Society. There was a favorable report by the censors on their applications, but the vote against them was overwhelming. Since then Dr. Cook and Dr. Francis, both colored graduates of the Medical School of Michigan University, had been re-

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<sup>1</sup>Senate Report No. 1050, 52nd Congress, 1st Session.

jected by the Society, as also had Dr. Shadd, a reputable colored physician.

"Inside the Society, Dr. Purvis continued, there is an association, or committee, to regulate the ethics of the profession. No colored man can belong to this association. The Medical Society licenses the colored physician, but refuses to allow him to become a member of the licensing body. As for the question of Howard University fees, said Dr. Purvis, that school was not chartered for the use of colored pupils, and the majority of the first class were whites, the fees being the same as those in other schools. As the number of colored students increased the fees were reduced, and the other schools have also reduced their fees.

"Dr. Reyburn, Dr. Lamb, and Dr. Joseph Tabor Johnson were members of the Society before they became Howard professors. After they went into the faculty they had to withdraw from it. Subsequently Drs. Reyburn and Johnson left Howard and identified themselves with the medical department of Georgetown University, and again became members of the Society. Within a year Drs. Graham and Hood, however, have been admitted to the Society notwithstanding their connection with Howard University, but Dr. Perry, a member of the Howard faculty, has been rejected.

"Dr. Purvis claimed that the leading physicians in Washington favor Howard, but that the younger men are averse to the institution. He himself consults with Drs. Lincoln, Ford Thompson, and others of equal standing; and the leading medical society of Baltimore admits colored graduates of Howard University."

The committee on June 22 found these facts, and in submitting their report made this comment only: "Your committee are fully satisfied, from the testimony of both sides to the controversy, that the Medical Society of the District of Columbia does not admit to membership colored physicians, however reputable or well qualified they may be, and that as regards teachers in the medical school of



Howard University it appears that in some cases they are admitted and in others rejected."

This episode is recalled to illustrate the point to which a broad interpretation of equal civil rights may be carried, and to direct attention to the tendency to confuse equality of civil rights with that of social rights. It may be said, broadly speaking, that the letter of the law passed before 1870 is observed. At different times during the past twenty years or more well-known negroes have been accommodated in the hotels of Washington without causing a stampede of white guests; the street car lines and steam railroads in the District offer equal accommodations to all, and if there is disorder on the late cars, particularly on Saturday nights, it is not so much due to the color of the occupants as to bad whiskey, which makes no discrimination in its effects on account of race, color or previous condition of servitude.

In July, 1833, Joseph Jefferson, father of the present Rip Van Winkle, was joint lessee with a Mr. Mackenzie of the Washington Theater, and together they addressed an appeal to the city fathers asking relief from a great burden that oppressed them most heavily. The appeal stated: "There is at present a law in force which authorizes the constables of the city to arrest the colored people if on the street after nine o'clock without a pass. A great proportion of our audience consists of persons of this caste, and they are consequently deterred from giving us that support that they would otherwise do."<sup>1</sup> The lessees estimated that the law meant a loss of \$10 nightly, and as they paid a tax of \$6 a night they asked for some modification of it. While it is hardly likely that any of the managers of Washington theaters would send a similar petition to the District officials should another early retiring law for the negroes be enforced at this day, the proportion of the negroes in the city able to pay for theater privileges is not such as to lead to any desire on the part of managers to evade the law

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<sup>1</sup> Special Report, Department of Education, 1871, p. 316.

flagrantly. Indeed, in one theater, where the performances are such as to appeal most strongly to that element known as the gallery gods, it is not unusual for the black gods to be in the great majority.

In the courts there is no distinction; negroes serve on juries in civil as well as in criminal cases, the counsel for the defense in a murder trial pays the same tribute to the intelligence and integrity of the negro juror as he pays to the inherent qualities of the white ones, and the acquitted man shakes the hands of all twelve of them with equal gratitude and cordiality. If a negro attorney is at times rebuked by the judge it is not on account of his color but because of his choler.

Office-holding by negroes cannot be considered wholly as a local question, but what has been conceded to them at Washington is of interest in connection with the question of equality. This must also be viewed in a comparative light. The population of the United States by the census of 1890 was 62,622,250, of whom 30,554,370 were females, and 7,470,040 are of African descent. The total number of employés of the government at Washington is 23,144, of whom 6105 are females, and between 2500 and 3000 negroes, and these figures show that the percentage of negroes of the country holding office in Washington does not differ materially from the percentage of whites on the same basis. Taking the Interior Department, the branch of the government employing the greatest number of persons in Washington, as a fair example of the whole system as far as the general government is concerned, it is found that of a total of 6120 employés in 1891 the negroes numbered 337, while in the departments of the District government of a total of not more than 3000 employés in the summer of 1892 1431 were negroes. In the general government the negro employés ranged from Recorder of the District, which has been given to one of their race under Democratic and Republican administrations since the appointment of Douglass, through clerks, school-teachers and other vocations to charwomen

and janitors; and in the Interior Department, where the estimate was made, the list included 74 clerks, 38 copyists, 1 typewriter, 2 transcribers, 12 computers, 1 assistant examiner, 53 messengers, 11 skilled laborers, 74 laborers, 5 firemen, 1 janitor, 15 watchmen, 5 packers, 1 painter, 3 receivers, 2 attendants, and 34 charwomen, and of the total number of negroes thus employed 103 were citizens of the District when appointed. Though the greater portion of these employes come under the head of unskilled labor, these figures indicate that the negro has been equitably treated in the distribution of offices, unless the contention be raised that they should have been appointed solely because they were negroes.<sup>1</sup>

Because of the confusion of civil or public rights with those of a personal or private nature, certain elements of the

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<sup>1</sup> In August, 1892, the disposition of the negroes employed under the District Government was as follows: 1 assistant assessor, 5 clerks, 1 food inspector, 1 superintendent of public schools, 283 teachers, 1 custodian of books, 9 police privates, 5 members of the fire department, 15 messengers, 981 laborers, 18 drivers, 72 janitors, 2 assistant superintendents and 7 foremen of street and alley cleaning, 2 cooks, 3 nurses, 18 owners of horses and carts, 5 miscellaneous. The most lucrative position in the District held by a negro has probably been that of Recorder of Deeds. This has recently been changed from a fee office to a salaried one. Statistics published recently by a negro who had collected them, show, in addition to those already given, 5 negroes employed at the Executive Mansion, 53 by the Superintendent of Public Grounds and Buildings, 4 United States consuls, 5 messengers and 7 laborers in the State Department, 3 collectors of customs, 331 other employes of the Treasury Department, including 1 auditor and 1 chief of division; 354 in the Interior Department, 173 in the War Department, 41 in the Navy Department, 8 in the Department of Justice, 70 in the Postoffice Department, 37 in the Agricultural Department, 29 by the Smithsonian Institution, 204 by the Public Printer, 67 at the Capitol, including 1 librarian; 19 in the office of Recorder of Deeds and 68 in the Washington City postoffice. The employment of negroes in the higher positions, such as ministers to Liberia and Haiti, just as in the lower ones, is rather a gauge of the political influence of the race than anything else, except where appointments have been made to the classified service.

negro population place themselves in a position which is not commended by those of either race, who are really well-wishers for the progress of the negroes and who recognize that there are certain relations of life which cannot be regulated by law, even should a law to regulate them be passed in that lack of wisdom which has sometimes entered into a consideration of the relative status of the two races. At times the feeling that the law does not meet the demands of their race has led some of the negroes of the capital to set forth their grievances in public meetings or in interviews, which are reported in the daily papers with or without comment. This feeling cannot be thoroughly appreciated by any one save the individual possessed by it, for, as one of the negro thinkers has pointed out, neither critics nor champions of the negro have been entirely "acquainted with the life they wished to delineate, and through sheer ignorance oftentimes, as well as from design, have not been able to 'put themselves in his place.'"<sup>1</sup> The nearest approach the student may have to this place is to listen to those who speak from that standpoint.

Upon several occasions opportunity to do this has been given, and the grievances of the negroes have been filed by them as well as answered by them. In December, 1891, a special meeting was held to effect some organization to obliterate color prejudices. One speaker said that if a colored person was arrested by a policeman he was treated entirely differently from a white person; he was clubbed by a policeman without any justification; that the great difference in the vital statistics among the colored and the whites was due to the fact that the colored people were forced to live in unhealthy houses in alleys, for which a higher percentage of rent was charged than for the palaces of the rich, and it was known that no respectable colored person could rent a house on certain streets on account of the combinations against them of real estate agents and owners. Another

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<sup>1</sup> Mrs. Annie J. Cooper in a speech delivered April 5, 1892.



declared that the purpose of the organization was to carry on an agitation and cooperation in patronizing those professional and business men and those stores where their race was recognized in the employment of clerks and salesmen. A third speaker pointed out that it mattered not how skilled the colored doctor might be, on account of prejudice he could not enter the bedchambers of the white people as the white doctor could enter those of the colored people. He had, however, discovered an establishment in the city where a colored salesman was employed by the white proprietor, and he would not advise his hearers to give their trade exclusively to places run by colored people, though he thought one of the best things they could do was to encourage colored people who undertook business enterprises of their own when they found such men responsible and reliable. This speech led to that of another man, who reasoned that if the colored people had a few more stores of their own they would be in a better position. White people, he thought, were ahead of them in the matter of employing colored people in order to get colored trade, and he concluded with the statement that the people of the colored race who have money never had anything to do with these meetings; he wanted the colored men who had money to try the colored people, and thought it was time not only to ask the white man to take in the negro, but also to ask the negro to take himself in, and they should show to the world that they believed what they preached by practising it. Just before adjournment the last speaker, who thought the whole plan out of joint, argued that if they were to interfere with the white man who discriminated against them they should do the same thing by the black man who acted in the same manner.

The proceedings of this meeting did not, of course, meet with the approval even of all present, much less of the community of negroes at large, and at a subsequent meeting, from the incoherency of purpose displayed, were derived certain statements as illustrative of the sentiments of those



assembled. One individual contended that the affair had been started to give some one a chance to gouge money out of the trusting; another said that he saw more prejudices among colored people of the District than between whites and blacks; another, that a business man must invest his money where it would bring the best returns, and colored capitalists did not propose to have the rabble who could not earn money dictate how they should spend it; while another knew black business men who had made their money off their own race and then invested the proceeds in a gilded palace for white people.

Shortly after these meetings, which failed of accomplishing anything, as might have been expected from the proceedings themselves, another mass meeting was called to protest against the killing of a young negro by a policeman, and to emphasize the feeling among a certain class of negroes that the police were extra harsh in their treatment of offenders of their race. The excitement ran high for several days, but the policeman was ultimately acquitted in the Criminal Court of the murder of the negro. The feeling was not eradicated, though, and found expression again a few months later in an attack upon the superintendent of police upon the ground that he was biased and prejudiced against the negroes. He had, however, suspended the policeman until his acquittal, and then restored him to the force, and these facts were brought out again in the controversy at the time, which was punctured quite cleverly by a negro lawyer, who wrote:

"But the question recurs that this is a Republican administration and that a good Republican ought to have the office of chief of police. To this I would say in behalf of the colored people that this is true as a general statement, but that in this particular case Maj. Moore represents that large and controlling element of white citizens to whom the colored people look for employment and whose sympathy and help the colored people need and want. They want it in the way of a public sentiment that will encourage higher grades of employment, the establishment of training schools

for old and young, friendly advice as to conduct at home and abroad, the repression of the liquor traffic, the encouragement of those who are doing the best they can, the visiting of the sick, the furnishing of work for the idle. In view of these considerations and of his established fitness for the place, leave Maj. Moore where he is and encourage him to go forward and fill to the utmost the opportunities for good of his position and of his class."

When it is borne in mind that the indignation meeting was held but a short time before the meeting of the Republican Convention in the District, and that the revival of the agitation occurred in the waning days of a national campaign, the wisdom of the lawyer's observation is apparent. There is reason to believe, though, that a negro prisoner is treated at times with undue harshness, but this is not because of a desire to discriminate against the race by those at the head of the police department, but rather to the stupidity or lack of self-control on the part of an officer, not sufficient, though, to counteract his general value as a preserver of the peace. For instance, not long ago a respectable-looking colored boy was arrested on Sunday for carrying a shotgun along the street. The Assistant District Attorney refused to make out a charge against him of carrying concealed weapons, but the policeman who had arrested him secured a fine against him in another division of the police court under an old law for carrying a gun "with the apparent intention of hunting on the Sabbath." It should be remembered, though, before passing from this topic, that there are sections in Washington where a policeman carries his life in his hands, and the utmost severity is necessary to enforce respect for his office and his uniform on the part of the criminal classes, of which the negroes are an unequal proportion, constituting one-third of the population and contributing more than one-half to the number of arrests.<sup>1</sup>

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<sup>1</sup>*The Washington Post*, Dec. 1, 9, 22, 25, 1891. *The Evening Star*, Nov. 29, 30, Dec. 1, 9, 22, 1891, Aug., 1892. *Washington Post*, Mar. 12, 15, 16, 17, 20, 1891.

In the spring of 1891, Congress having failed to appropriate sufficient money to meet the expenses of the National Guard of the District, Gen. Albert Ordway, commanding, issued, on March 9, an order that the four companies of negro militia, forming two battalions, be mustered out. Not many years before that a similar failure on the part of Congress had resulted in companies being cut off, and the second episode brought out not only the protests of the militia affected by the order and their friends, but also the politicians, who saw at once another instance of the color line, and for several days the controversy raged. A protest of negro citizens was presented to the President, to whom Gen. Ordway had explained that the matter was a financial one, and that so far from having any feeling in the matter he would himself make as large a contribution toward maintaining a colored battalion which would include the four companies, as any other individual, and he would, if necessary, pledge the rental of the armory for a year. The conference with the President resulted in a change from the plan of disbanding the companies to one of consolidating them, which had, indeed, been contemplated previously, and another example was given of the equitable treatment of the negroes, supported by public sentiment. The two opinions on the subject may be had in the words of the commanding general, and of one of the committee which conferred with him. The former said: "I am glad the difficulty has been arranged and that the colored companies can still be kept in the National Guard. I hope the consolidation will be effected harmoniously, if it is decided on, and that all the necessary public help will be forthcoming. I have not drawn the color line at all in this matter, and the reasons for my action were purely military ones, as will appear to any one who looks into the matter." The latter said: "When the order disbanding the colored militia was issued, the impression made upon the public mind, and in which we shared, was that race and color, and not politics, was the cause of it. In reply to this, Gen. Ordway frankly ad-

mitted that whatever his motives may have been, his order, under the circumstances, was susceptible of that construction." The consolidation took place, and nothing more of friction came to the surface until some indefinite fears were expressed that the participation of the militia of both colors in a Thanksgiving sham battle might result in some unpleasantness, and the injury of one colored soldier was attributed privately to race feeling.

Occasionally the controversy over discrimination takes a grotesque form, as in the case of the embryo bathing beach on the Potomac; and to a complaint that negroes were given a separate place from the whites, the superintendent replied: "I have allotted to the colored folks more area per capita than to the whites, but the whites have not complained . . . it is my aim to make the beach a popular bathing place, and everybody knows that can never be if the two races are forced to mingle. The Creator marked the races with different colors, and I do not ask why; I take them as they are, and with a desire to benefit both I shall not try to obliterate the mark. White folks will not be permitted to occupy the colored premises, nor colored folks the white premises. This seems to me the only practicable solution of the question, and I think the commissioners are sustained both by law and public opinion in maintaining the distinction the same as in the schools." While another correspondent wrote: "The black boy has the same privilege as the white. The beach is the same, as are the dressing-rooms, and I am quite sure both have the same privilege of bathing if they choose, and the white boy is not indignant that he has to bathe alone, for which reason I cannot see why his colored friend should be, they being on exactly the same footing with regard to privileges and restrictions and being held to be upon an equality."

In brief this is a review of the contention of the negroes for equal rights in the District. It is presented in as impartial spirit as possible, and no better commentary on the status of the negro as to civil rights is had than in the



experiences during the recent encampment of the Grand Army of the Republic in Washington. When the enterprising citizens were striving to bring the encampment to that city, certain negroes bestirred themselves against the plan. One of the spokesmen said, in referring to the Grand Army:

"It dare not bring its next encampment to this city, when it is a fact that quite a number of those who signed the call to bring it here make bold to say that in their places of business no negro could or would be accommodated, and two of the signers have made the public statement that they wished no negroes would ever again enter their stores. We shall appeal to the moral sense, the loyal sense of the eminent men of the country, as well as the rank and file, not to encamp here on these grounds, and for other solid reasons, which we will make good by correspondence between now and then and in a public meeting in Detroit the first night of the encampment."

"We have no idea," said another, "of allowing the encampment to be held here, and already a hall has been secured in Detroit in which we shall hold meetings and fight every claim set forth by Washington. There are more than the colored Grand Army men opposed to this thing, and they intend to fight it to the bitter end. If it is not already a political matter, it will be made one before it is over."

The Grand Army came, however, and in its great parade two negroes were on the staff of the chief marshal of the citizens' escort, a collection of negro school children on one stand sang the same songs as the collection of white children on another, the same public provision was made for the comfort of the negro veterans as for the white ones, and in spite of the fact that the occasion presented unprecedented opportunities for the politician, but one case of alleged violation of civil rights was made. A negro of New York charged against the proprietor of a first-class restaurant that his color had prevented his being served in the establishment. The proprietor testified that his orders had



been to serve all Grand Army men, white or black, the floor-walker gave his version of the incident, and in three minutes the jury gave a verdict of not guilty.<sup>1</sup>

It must not be inferred from this summary of the question that in such places as first-class saloons, restaurants, hotels or other public resorts the negro customer would be as welcome a visitor as the white one, however equal the money of the two races might be in other places of bargain and sale; but this latent spirit of discrimination would be found to exist in a proprietor no matter what his color, provided the great mass of his customers were white. This is but an outcropping of that feeling, recognized by the sober-minded of both races, that however equitably the civil rights of the negroes may be observed, the line is drawn when the question of equal social privileges is raised; but even in that case where personal preferences govern, as in the case of public resorts, where the law offers protection, the sensible negro perceives the wisdom of remaining where his company is desired instead of attempting to force himself upon those who prefer the association of the whites alone.

The public schools are an illustration of the feeling that on social lines the line must be defined between the two races, and the willingness that in public education the negroes shall enjoy privileges similar to those of the whites, while what might be a great lever toward the attainment of social equality is to be avoided, but emphasizes the feeling which finds expression in church relations and the intercourse of the private home. Whether the negroes were originally forced from the white churches, whether they willingly retired, or whether there was a medium between these extremes, it is doubtful whether the great majority of the negroes would avail themselves of the full privileges of the white churches should such be offered them, for it is noteworthy that the negro followers of two faiths, the Catholic and the Congregationalist, which seem to draw no

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<sup>1</sup> *Washington Post*, July 5, '91, Sept. 29, '92.

color line in their sanctuaries, have since the war and their enjoyment of equality under the law, organized separate congregations of their own; and it is also interesting to note that in the only Catholic church erected for the negroes particularly, whites and negroes are found worshipping together under the ministrations of white priests who are served by negro acolytes. In some of the white churches of other faiths a few negroes are numbered among the congregation, but they occupy the back seats or the gallery, as they have been accustomed to do since long before the war and emancipation; and the advent of a negro in responsible official station in the body of a church near the pew of the President of the United States creates as much unfavorable comment from some of the whites as that aroused among some of the negroes when one of their number preferred to attend a white Congregationalist church instead of lending his influence to a congregation of his own color. The only Presbyterian church in the District for negroes had its origin before the war, while the only Lutheran congregation of negroes and the Episcopal congregation of negroes, with a negro rector, and the Episcopal missions for them in charge of white clergymen, are growths of the post-bellum period; but the reason for the comparative scarcity of negro congregations of these faiths is not due to a slackening of the line of demarcation, but rather to a failure of their methods of worship to attract the negro.

It was the opposition to social equality, too, which resulted in the organization of the Colored Young Men's Christian Association. In the preliminary meetings, while one element attacked the white organization on the ground that as it claimed to be a Christian association it should admit to its membership any Christian, no matter what his color, another explained that while those upon whom the existing association depended for its support objected to the admission of negroes, it would second any efforts of the new body for the welfare of the negroes. In another non-sectarian organization, the Woman's Christian Temperance

Union, a different spirit prevails. Some of its members are negroes, and they have rendered efficient service among the members of their race. They participate in the meetings of the Union, and at its receptions are on an equality with everybody else present. Another organization of a somewhat philanthropic character, Wimodaughsis, the name being formed of the first two or three letters of the words wives, mothers, daughters, sisters, had not been in operation a year before the color question was raised, with the result of the resignation of the secretary, who considered herself the founder. The trouble was precipitated by the entrance into the classes of the institution of a negro woman, a teacher in the public schools. The resigning secretary gave her views as follows:

“The idea of the Wimodaughsis is not only that of a business corporation, but it is a social organization. We have pleasant rooms here where members can come in evenings and read and amuse themselves. Every Thursday evening we have social entertainments and once or twice refreshments. It was by presenting this social feature that I was able to bring so many of my friends, a large number of them being Southern ladies, to subscribe for stock in the organization. You can see that if negroes were admitted the social features would be destroyed. At the Thursday evening entertainments gentlemen are admitted. If colored women were allowed to be members, why there is nothing to prevent them bringing colored men to the entertainments. I feel that I have been treated outrageously, and in this belief I am sustained by not only the Southern lady stockholders, but by the ladies further North who are not woman-suffragists. The trouble all lies with the woman-suffragists, who, to be true to their doctrine of equality, must advocate the admission of negroes.”

The position of the majority of the board of directors, who favored the admission of negro women to the privileges of the Wimodaughsis, was that it was a business corporation, and as there was nothing in the charter limiting

the membership to any class or race, any woman who subscribed for stock was entitled to the privileges of the club, and any one who paid her tuition must be given that for which she had paid; that it was an incorporated body to which the provisions of the civil rights amendment applied just as strictly as to any other public institution. They denied that it was a social organization, but claimed that it was a club for the education of women. The result of the controversy was in favor of the element which the ex-secretary considered as representative of woman-suffragists; and the organization continued its work, and at subsequent events of distinctively social character, negroes were present and moved about as freely as anybody else.

Aside from such organizations and those of a political complexion, the color line in society is drawn almost as distinctly in Washington as in Richmond or Baltimore. Even in the posts of the Union veteran associations it has been found expedient to separate the races, though in the general organizations of men and the auxiliary of the women no such distinction is raised, and at their public meetings have been a liberal proportion of negro men and women. Perhaps a negro official or ex-official may be present at a White House function, and thus supply material for inflaming at a later date personal animosity against a presidential candidate; perhaps in an organization of citizens intended for the general welfare the negroes may have representation; of twelve hundred and eighty-nine marriages in a year, of which 341 are among colored people, there may be cases of miscegenation, as was the case in 1891, with similar acts in previous years;<sup>1</sup> perhaps a former mayor of Washington may entertain at his home negroes at a reception in honor of the Methodist Ecumenical Conference, to which negroes were delegates; perhaps two or three negroes may be present at a reception by the citizens of Washington

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<sup>1</sup> Of three such cases in 1889 there were two white grooms and negro brides and one negro groom and white bride.



to the Grand Army of the Republic, or by some public character at other times;—but such incidents among the thousands of events in the composite and conglomerate society found at the nation's capital do not demonstrate that there is any real lessening of social restrictions. The complaint about these distinctions is not always directed against the whites, for the negroes feel that they have social limitations among their own race. Speaking generally, the white woman who marries a negro must find her chief social pleasures among his associates, if he does not lose by such a marriage some of their respect and sympathy; and the organization of a Colored Young Men's Christian Association, instead of being a protest against caste, as one negro styled it, may be a half-conscious testimony to race pride. One of the leaders of the negroes, who has frequently made the capital the pulpit for his utterances to the country, had this to say about the Ecumenical Conference:

“Nothing has done more to drive away the prejudice that exists against the colored race than this conference of educated Christian gentlemen. This was evidenced by what I saw a few days ago in the elegant residence of ex-Mayor Emery, of this city. Among the elegantly dressed people in that house I saw the colored people moving freely about, not crouching as if they had no right to be there. The blackest of them moved about as though they had always been used to it. It was an illustration of the universal brotherhood of man and that human equality which could not be brought about anywhere as it has been at this conference.

“Our American brethren fought a little shy of us, but our English, Scotch, and Canadian brothers took us by the hand as if they could never let go. We have often heard the doctrine of human equality preached, but in this case we had it exemplified. I felt proud of the dignity, the decorum, the gentlemanly bearing displayed by our brethren in connection with this new revelation of American society. The great demon that must be cast out of the American mind is



prejudice, the assumption of inferiority on account of the black man's color. This demon of prejudice has never been more authoritatively ordered to come out of Washington than by this conference. The example will not be lost. If after these English brethren have gone the Americans attempt any proscription, we will inform on them at the next conference."

Though what he termed "the demon of prejudice" has failed to obey such orders, his remarks are an example of one view held by some negroes at the capital, which has been expressed in another way in the statement that "the colored race in fifty years will have sufficiently advanced in intelligence to break down a majority of the barriers now existing between them and the white people." The other view, which it is believed is held by the majority of the negroes who have given serious thought to the subject, is that of a member of a political organization in which a discussion of the color line was had. As for social equality, he said he did not want it. All he wanted—all any sensible colored man wanted—was equal rights under the law. He did not believe in social equality. There might be members of the association whom he would object to have visiting his wife and family. Each man must be a judge of such things. No colored man of sense would ask for social equality. This was but a blunt way of giving vent to the sentiment which was expressed in a meeting of a literary society.

"The matter of social equality," said the speaker, "will be, and ought to be, left to individual preferences. Although we have been accused of it, we are not contending for this sort of recognition from our white friends, because we recognize the right of the party doing the entertaining and paying the bills to select the guests, and because we find among ourselves all of the purely social that we have any need for. We do not practise unrestricted equality among ourselves and ought not to. We invite whom we desire; they accept or refuse, as they desire. There never will be any friction between the races on this score. We under-

stand and practise the same customs, distinctions and preferences which white people follow. This is not what we are contending for. We are not objecting because we are excluded from the social whirl. It is by a dexterous juggling with this idea of association with colored people in a purely social sense, an idea so repugnant to white people generally as just explained, that some persons unfriendly to us endeavor to raise the dust of color prejudice so thick that our white friends who are disposed to accord us justice cannot see their way clear to do it. We can take care of ourselves in a purely social way. But when their prejudices make them set up invidious distinctions and discriminations in public licensed dining halls, hotels and places of amusement, make them want to exclude us from the avenues of remunerative employments, the commercial world, and make them deny to the most cultured and aspiring among us admission to their best professional schools, schools of art, their professional, scientific and literary associations, we think it a hardship which we, as loyal American citizens, ought not to be compelled to endure."

The exceptions to the general rule regarding personal equality only define the rule more sharply, and no more prove or indicate a change of sentiment than did the ride of Charles Sumner and Henry W. Longfellow in a car set apart for negroes back in the sixties show that the great mass of the white population of the District favored a removal of those cars.

## V.

### AN EXPERIMENT IN SUFFRAGE.

Had the legislation in behalf of the negroes in the District stopped short at provision for their education and civil rights under the law, and had those provisions been fulfilled in a conservative seconding of the radical spirit which dictated them, one chapter of life at the national capital would have remained unwritten, and the District of Columbia would probably not present now, in a government ostensibly of the people, by the people and for the people, the appearance of a political eunuch. Though later events may have demonstrated that the extension of the suffrage to the negroes was unwise at the time, and disastrous in its effects in after-years, a careful study of the events following the passage of what is known as the bill of rights for the District, with the manoeuvres preceding it, is not only instructive when compared with movements in other sections of the country, but furnishes food for careful consideration by those who, from a sentimental or practical standpoint, would devise some form of local self-government for the seat of the national government.

The dream of the participation of negroes in the politics of the District, which was enunciated as early as 1849, seemed at that time the veriest figment. Eighteen years later the dream became a reality, with effects which were immediate, pronounced and, in a measure, permanent.

Following the various acts in the negroes' behalf in the early years of the war, the agitation for granting them the full privileges of citizenship had reached such a stage in 1865 that a special election was held, in December of that year, in Washington and Georgetown to determine the will of the white voters on the subject. The poll was a large one, and showed that the voters were almost unanimously opposed

to the scheme, the results being, for negro suffrage, Washington, 35 voters, Georgetown, 1; against negro suffrage, Washington, 6556 voters, Georgetown, 813. This sentiment as voiced at the polls was emphasized a few days later in a letter by Mayor Richard Wallach, of Washington, who had been mayor of that city since August, 1861, during all the exciting days of the war, and whose position in public and private life justified his judgment of the prevailing wishes of the voters of his community. He wrote, under date of January 6, 1866: "No others in addition to this minority of thirty-five are to be found in the community who favor the extension of the right of suffrage to the class and in the manner proposed, excepting those who have already memorialized the Senate in its favor and who, with but little association, less sympathy and no community of interests or affinity with the citizens of Washington, receive here from the general government temporary employment and having at the national capital residence limited only to the presidential term and invariably exercising the elective franchise elsewhere." Mayor Wallach's position was one of argument, but to argument was added threats, one newspaper of that time boldly insinuating about the negroes that, "should they go to the polls to deposit their ballots, the probabilities are that they would not all return to their homes."

But Congress, and especially those members of the Senate who had become the special advocates of the negroes, had before them the petition of "twenty-five hundred colored citizens of the District"; they had, in a sense, come to regard that special legislation for the District as inaugurating the policy which was to be pursued toward the rest of the country, and, in the face of the opposition of the representatives at the polls of the white population, in spite of the fact that in nine States distinctively loyal and represented in the Congress, namely, California, Connecticut, Illinois, Indiana, Iowa, Kansas, Ohio, Pennsylvania, New Jersey, the right of suffrage was limited to white males, and in others there

being a property or educational qualification, the Senate set about conferring the franchise upon all men in the District who had resided in it a year, "without distinction of race or color."

The debate, however, was on, and it was continued for several months, marked by all the bitterness of opposition on the one hand, and the pugnacity of views on the other, which had characterized similar discussions since the negro question had become congressional property. Quotations from Scripture, appeals to physiology were of no avail. The wise amendment offered by Senator Dixon, of Connecticut, providing for a qualification of intelligence, was lost, as was also that of Senator Cowan, of Pennsylvania, to strike out the word "male" from the act, though this proposition, which was at first considered a joke, precipitated a prolonged debate, which will all be repeated in all likelihood before the enfranchisement of women. On December 13, 1866, the bill was passed by the Senate, and on the next day the House acted favorably upon it. It had, however, not yet become effective and received a temporary check when it was returned, on January 5, 1867, with the veto of President Johnson. His message on the subject was a lengthy one, but after he had reviewed the special election of 1865, he went to the heart of the matter in these words, in referring to the new voters who would be created should the bill become a statute:

"Possessing these advantages but a limited time, the greater number, perhaps, having entered the District of Columbia during the later years of the war, or since its termination, one may well pause to enquire whether after so brief a probation they are, as a class, capable of an intelligent exercise of the right of suffrage and qualified to discharge the duties of official position. \* \* \* Clothed with the elective franchise, their numbers, already largely in excess of the demand for labor, would soon be increased by an influx from the adjoining States. Drawn from fields where employment is abundant, they would in vain seek it here, and so add



to the embarrassment already experienced from the large class of idle persons congregated in the District. Hardly yet capable of forming correct judgments upon the important questions that often make the issues of a political contest, they could readily be made subservient to the purposes of designing persons \* \* \* It is within their power to come into the District in such numbers as to have the supreme control of the white race and to govern them by their own officers, and by the exercise of all the municipal authority, among the rest, of the power of taxation over property in which they have no interest."<sup>1</sup>

Congress was not to be restrained by such reasoning, but, on January 8, passed the bill over the veto, and the right of franchise was conferred upon the representatives of more than 30,000 persons, the majority of whom were but five or six years removed from the life on a plantation. This was less than seven months after the fourteenth amendment had been proposed and more than eighteen months before it became a part of the Constitution by ratification. It was nearly two years before the fifteenth amendment was proposed, but it was soon followed by the civil rights bill of the District. This provided that the word "white" wherever it occurred in the laws relating to the District of Columbia, or in the charter or ordinances of the cities of Washington or Georgetown, and operated as a limitation on the right of any elector of the District to hold any office, or to be selected and to serve as a juror, was to be repealed. Passed in July, 1867, and again in December of that year, it failed to become a law through President Johnson's not signing it, but on March 18, 1869, it received the signature of President Grant, and the sweeping legislation for the political benefit of the negroes reached its culmination.

Effects of this were instantaneous almost, and in April, 1869, Congress was asked to change the form of government. The agitation to this end was continued during the terms of

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<sup>1</sup> Veto Messages, 1792-1886, p. 324.

service of Mayors Sayles J. Bowen and M. G. Emery. On the floor of Congress the new class of full-fledged citizens were reckoned among the elements contributing to make the government of the capital "the worst government in the United States," and, indeed, one speaker stated as his opinion that "now the truth is that there are reasons why a municipal government for this District, elected by universal suffrage, should be a worse government for the District than the municipal government of other cities, if that be possible." It was a curious form of government, to say the least, and when, in spite of objections of municipal authorities, and a "reform" movement, it was changed by act approved February 21, 1871, to a territorial form, it was thought that the people and Congress would have some measure of relief. Escaping from Scylla, however, the District seemed to have dashed against Charybdis, for within less than a year after the inauguration of the territorial government, which included a governor, a council and a board of public works appointed by the President, a House of Delegates, and a delegate to Congress elected by the people, an investigation of its affairs was demanded of Congress and granted. A special committee sat for ninety days, beginning January 22, 1872, and devoted their time to a study of documents and the hearing of testimony regarding the conduct of elections and the managing of the finances of the corporation, notably the \$4,000,000 loan which by an election held in November, 1871, had been authorized for the use of the board of public works.

The investigation was useful not only in illustrating the character of elections under universal male suffrage, but also in indicating what would be the result of the system under the peculiar conditions prevailing in the District. Witnesses told of the absence from the polls of tickets against the loan, of negroes marching to the polls or camping in their vicinity for hours, and of some reputable citizens remaining away from the polls entirely. One witness, for instance, said:

"On the Republican side we would have our meetings in each precinct the evening prior to election, and in some instances we would go to the polls in bodies and sleep there till morning, to await the opening of the polls, because it would sometimes take a man two hours before he could get at the window to deposit his vote."<sup>1</sup> One body of men, who were then organized, included 7 whites out of 86 voters, and it is really not surprising to read the statement of the memorialists praying for an investigation, that "the minority, appalled by the perception that five voters who had nothing might surely be counted on to tax the property of the sixth," made no efforts at the polls.

In November, 1867, the number of voters in the District were 13,294 white, 6648 negro; in April, 1871, of the 28,502 votes registered, 26,306 were cast at the election of a delegate to Congress; in November of the same year, of the 28,529 voters registered, 17,757 were white and 10,772 negro. The vote in that month, on the \$4,000,000 loan, was 14,760 for and 1213 against, while, at the same time, 17,750 votes were cast for the District house of delegates.<sup>2</sup> As there is nothing in evidence to show that the negroes were backward in exercising their new rights, it is fair to presume that there was much truth in the words of the memorialists. The testimony of one witness is so enlightening that it should be read in this connection. Rev. J. W. Green, a negro divine, was before the committee, and this was the dialogue:

"State your name, residence and occupation."

"J. W. Green; I reside in Washington; am a minister of the Gospel."

"Were you present at a meeting on the 12th of October, 1871, in the seventeenth district, held at Island Hall?"

"I was."

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<sup>1</sup> Investigation into the Affairs of the District, 1872, p. 274.

<sup>2</sup> Investigation, etc., 1872, pp. 442-443, 493. Cf. Investigation, etc., 1874, p. viii.

"Where Colonel Perry Carson was chairman and Joseph Williams was elected secretary pro tem."

"Yes, Sir."

"Is that a truthful report of what occurred at that meeting?" (Question objected to.)

"State what occurred at that meeting."

"I was present at that meeting called by F. A. Boswell, the chairman of the Republican club of that district. Mr. Boswell left after calling the meeting, and went to Massachusetts. The meeting went on, and Perry Carson was a vice-president and called the meeting to order. Mr. Williams was elected secretary pro tem. Carson stated the object of the meeting, when Williams got up and stated the call for the meeting, and then said that he himself advocated the four million dollar loan, or words to that amount; and that he was sorry it was not ten million instead of four. The report in the paper (the Citizen) is substantially correct."

Objection being made to the witness stating what he himself said, as he was not connected with the government, so much of the proceedings of the meeting were then read as included what Mr. Williams said, as follows:

"Joseph Williams arose and said that he only hoped it was for \$10,000,000 instead of \$4,000,000, for the laborers would at least get the drippings. If the loan was defeated, the laborers would be thrown out of employment and their families would suffer. Some people alleged against him that he was a contractor. He thanked God that he had brains enough to be a contractor, and that he was not dependent on office for his support. All he wished was contracts, and he would fill them rightly. He expected to transmit his brains to his children and all the children around him. He had brains enough for the whole seventeenth district.\*\*\* He always paid his laborers, and if he made money in his contracts, he did it on the square, and he defied any one to catch him tripping\*\*\* Whoever, said he, shall vote against the loan must take the consequences. He was interested in the loan, and if any man voted against it and came to him for work, he would tell him go starve."

This suggestive extract having been read, the examination of Green was continued. He was asked:

"Do you know whether the colored men were intimidated at the polls?"

"I do not know," he replied, "whether they were directly at the polls, but they were before they went there."

"By whom?"

"By threats made in public speeches, in like manner to this one read."

"By contractors or men in the city government?"

"I cannot say, but I think so."

"Do you know whether any member of the District government made any such threats?"

"I would not say but I think I could be prepared to answer that question."

"Were voters brought up to the polls in bodies?"

"No, Sir, they came up two abreast."

"Did they go up in considerable numbers at one time, under leaders?"

"There were attempts made several times, but the police prevented it."

"Was there any arrangement made beforehand that they should vote in a certain way?"

"I do not know."

"Did they have leaders to supply them with tickets?"

"The tickets were placed in the hands of various persons, who dealt them out on the morning of the election. I was chairman, and dealt out tickets and saw that they were distributed properly."

"Were the tickets for and against the loan of different colors?"

"I did not interfere with that election at all. I think four were placed in my hands. I voted for the delegate and kept the other three. I don't know how voters were brought up at the last election. I was speaking of the common custom. I didn't bother my head with the last election; I simply voted and passed along. I don't recollect about the color of tickets."



"At the elections here, are the colored men in the habit of voting for men upon their own preferences and judgment?"

"Many are not; they depend upon others more than the white voters generally, because they are uneducated. Men of my own color will deceive their color as well as white men. White men can deceive them better, because they are educated."

"Who edited the paper when Mr. Williams' speech was reported?"

"I do not recollect. I heard the speech, and so far as read it is substantially correct."

"Did you oppose the loan?"

"Yes, Sir."

"Did you make speeches against it?"

"Yes, Sir."

"Did you vote at all on it yourself?"

"No, Sir."

"Do you know any one who was influenced, either by money or intimidation, to vote for the loan?"

"I do not, personally."

"Do you know of the use of any money?"

"No, Sir."

"Was money offered to you?"

"No, Sir. I informed them that no man must offer me money."

"You have been a leader among your people on election days?"

"I have always taken an interest among our people, to instruct them, as they are uneducated, and tried to see that no advantage was taken of them."

"When you spoke of distributing votes, you did not allude to the last election?"

"No, Sir. I have opposed some of the men of my own color, and have been abused by them because I expressed my sentiments against certain men. There seemed to be more interest in the last election, generally, than usual."

"More in the loan than in electing a delegate to Congress?"

"I suppose some did; the loan brought in a different class; some interested for money, and some for politics."

"Do you know of money being used in either elections?"

"Yes, Sir."

"Was any treating done at the other elections?"

"Considerable."

"Have you been in the employ. of Mr. Albert Grant?"

"No, Sir."

"Did you vote on the loan on either side?"

"No, Sir. I think there were tickets at the polls against the loan in the morning."

"For whom did you vote for delegate?"

"Mr. Boswell. I did not know whether he was in favor of the loan or not."

"How long before the last election was the meeting at which Mr. Williams made the speech which has been referred to?"

"The election was on the 21st of November; the meeting was on the 12th of October."

"What proportion of the people of your district are laboring men?"

"A large portion of them; mostly colored men. Many of them have been in the habit of laboring on the streets."

"Do you know whether colored men were imported from Maryland or Virginia, outside?"

"Yes, Sir; men were brought in from Maryland, who worked on Seventh Street, inside of the boundary; and men were brought from Alexandria to work on the canal."

"Did they vote?"

"I do not know rightly whether they did or not."

"Were many brought in?"

"There were on Seventh Street. I saw fifteen out of eighteen that were brought from Alexandria."

"Were they brought here to work or vote, or both?"

"I do not know; but I know they were residents of Alexandria."

"Did you have any conversation with any of them about voting?"

"No, Sir."

"Did you see any of them vote at the polls?"

"No, Sir. It was before election."

"Have you any knowledge of intoxicating liquors being dealt out at polling places?"

"I did not see it; only its effects."

"Do you know that it has been threatened that, if the Democrats were successful, they would restore slavery?"

"I have heard that frequently, and have had to fight it, and tried to instruct them to know better than to believe such a thing."<sup>1</sup>

Comment is almost unnecessary upon this array of statements and inferences, which were a fair exemplification of the position occupied by the negroes in the politics of the time. But the exhibit is the more significant because the elections not only placed men of color in the Legislative Assembly, where they had the ultimate power of taxation, but also because this particular election opened, as it were, the bunghole of the treasury, through which the money of the people flowed in ever-increasing volume, instead of percolating moderately and unvaryingly through the legitimate spigot. It was told in the investigation how some of the funds of the District were used, the telling of this, perhaps, explaining, in part, the comparative unanimity of those able to read among those who appeared at the polls. At that time, when the population of the District did not exceed 135,000, of whom not more than 90,000 were white, fifteen newspapers enjoyed either a substantial or a more or less precarious existence. In the first ten months of its operations, the government felt called upon to distribute among all these papers, for advertising and printing, \$101,221.79, and from January 31, 1872, to April 1, 1874, \$88,803.53, a total of \$190,025.32 in three years; this total not including

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<sup>1</sup> Investigation, etc., 1872, pp. 372-374.

the accounts of the fire department and the various school boards. The expenditure in the first ten months, according to the statements of the government, though the minority of the investigating committee estimated it at \$143,635.62, was but \$11,813.36 less than the total amount spent under the administration of the last two mayors, a period of three years, and that sum, \$112,035.15, included the cost of binding the official documents. Granted that the change of government necessitated extra advertising, even the majority of the committee acknowledged that some of it was unnecessary, and within a few weeks after the investigation closed without action against the authorities, the Legislative Assembly, on June 20, passed an act regulating the municipal advertising, by which the expense in that line was somewhat reduced, though William E. Chandler had explained the situation in these words:

“It was difficult to give the advertising to one newspaper without giving it to all, and with that generosity which public officials usually show to the newspaper press, the papers of the District were allowed to print all the government advertising, without any attempts to make sharp bargains with them. Complaints of this character, ‘too great expenditure of money for printing and advertising,’ are always made against every municipal, State or national administration, and while such expenditures cannot always be justified, the offenses may well be treated as venial and not deserving of severe reprehension.”<sup>1</sup>

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<sup>1</sup> Appended to Investigation, etc., 1872, p. 19. On this point the minority report had the following (p. xvii): “The seventh charge is that ‘an unparalleled profligacy in advertising has been exhibited in the employment of fifteen newspapers, bearing an ominous resemblance to subsidizing the press of the District.’ This charge is fully proven, the amount thus expended reaching the enormous sum of \$143,635.62; and the recklessness and profligacy of the District government and board of public works in regard to this charge is fully admitted by the majority. It was attempted on the part of the District government to justify this large expenditure for advertising and printing on the ground that its use brought the

The investigation ended in what was considered a vindication of the municipal administration, though the minority report to Congress voiced the opinion of some, that some change should be made by which greater power over the officers should be enjoyed by the people. But the proposition then advanced, to make all the officers elective, except the governor, would hardly have met the united support of the opposition, as with them it was not so much a question of the people having a voice in the conduct of their affairs, as of some people not having a voice, inasmuch as they were not qualified to exercise their new-gained privileges intelligently.

Results of the first investigation did not cause the opposition to relax their efforts, which culminated in another investigation in 1874. At the first session of the forty-third Congress, several petitions were presented by citizens of the District, asking that a joint select committee should be appointed to examine into the affairs of the District government. The committee was appointed and, after organization, on February 11, and the arrangement of certain preliminaries, commenced taking testimony, on March 5, and continued its sessions for that purpose daily until May 28th.

The committee's task was to inquire whether unlawful contracts had been made for public improvements, the actual cost of the improvements, the amount agreed to be paid for

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newspapers to the support of the loan, and the unity of sentiment of the people as expressed through the press had a material influence on the value of the bonds in the market, and yet we have the sworn statement of every newspaper proprietor in the District that the amount received from advertising and printing had no influence whatever upon their action, which clearly establishes the fact that the large expenditure above named, or the greater portion of it, was utterly thrown away, and was simply taking that sum from the pockets of the tax-payers and giving it to the press; not for the purpose of subsidizing it, for that is sufficiently disproved by the sworn statements of the proprietors themselves, but simply from a high regard entertained by the District government for the newspaper press."



them; whether unlawful assessments and taxes had been levied; whether correct measurements of work had been made; the existing debt on its account, and what, if any, portion of such indebtedness was created on account of Government property and might be paid out of the United States treasury; and to report such amendments to the organic acts as might be necessary to protect further the right of citizens, or to regulate the handling of moneys.

Governor Shepherd, who had succeeded Governor Cooke as the executive of the District, in answer to the petitioners had submitted a memorial arraigning the other memorialists, reviewing briefly the affairs of government under the territorial system, and, while disclaiming all purpose to evade any reasonable and proper investigation, asking whether, under all the circumstances, it would be fair and just to the people of the country and of the District, and to himself and his associates, to enter upon an inquest without some probable cause shown of the truth of the charges made. He stated that, in addition to the report of the former investigation, "completely vindicating the District authorities," "every charge of unlawful exercise of power by the District authorities now complained of has been presented to the courts of the District, and in every instance the District authorities have been sustained; that at every election, of which there have been several, the people of the District have sustained its officers by large majorities; that notwithstanding attacks through the public press and the utmost efforts of the factionists of the District already alluded to, which for malevolence, unscrupulousness and want of truth have been unparalleled, still your memorialist believes that the officers thus assailed have not forfeited the respect of the public at large or the citizens of the District, but would be fully vindicated before your honorable body if their voices could be heard. Your memorialist denies that the opposition, now demanding a third or fourth investigation, are law-abiding citizens or are seeking the good of the District; but says their whole purpose is either to overthrow the present form of govern-

ment or to cause the removal of officers whose appointment they cannot themselves dictate.”<sup>1</sup>

Mr. Shepherd was heard again and at length in the investigation, in which the utmost latitude seems to have been allowed in the examination of witnesses and the admission of testimony, and at its conclusion the report to Congress, made June 16, was signed by all the committee,—Senators William B. Allison, Allen G. Thurman, William M. Stewart, Representatives Jeremiah M. Wilson, Jay A. Hubbell, Lyman K. Bass, Hugh A. Jewett, and Robert Hamilton, who were unanimous in the recommendations to Congress.

The greater part of the examination was devoted to the board of public works, which was claimed by counsel for the defense to be not subordinate to the municipal body corporate, and which it was alleged had levied special assessments under express authority of the legislative assembly and not independently of it. Counsel also contended that the board had not usurped authority, that its construction of the organic act under which it had conducted operations had been sanctioned repeatedly by judgments of the courts, that Congress had from time to time made appropriations for payment of the work, and that the indebtedness of the board of public works was no portion of the indebtedness of the municipality of the District of Columbia.

The investigating committee, after weighing all the evidence, found that while they could join in the general expressions of gratification at the improved condition of the national capital, they were compelled to condemn the methods by which the sudden transformation had been effected. They considered that the board had adopted an erroneous method, vicious in its results, of awarding contracts without open competition, with the attendant increased cost for improvements and the opening of the way to favoritism in letting contracts and of brokerage in the same. They found that in three years the funded indebtedness of

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<sup>1</sup> Investigation, etc., 1874, p. 11.

the District had increased from \$4,350,189.91 to \$9,902,251.18, and that the total burden upon the property of the District was \$20,716,008.07, while the assets represented by all forms of taxation was \$6,726,360.04, and the District treasury was practically exhausted in all its departments. As illustrative of the financial methods of the administration, the committee's report may be quoted verbatim as follows:

"The act creating the board limited the total debt of the District of Columbia to 5 per cent. upon the assessed value of property within the District, the intent of which was to limit the actual debt of the District to that sum. The board, however, construed the various provisions of the organic act as placing them and their transactions without the pale of this limitation, endeavoring, at the same time, to keep within the letter of the law, while violating its spirit; and to this end the legislative assembly, from time to time, passed acts which were simply devised for the purpose of raising money with which to pay previously incurred obligations, and continue the improvements by creating temporary obligations upon the property of individuals in the District. Thus we find that after exhausting the \$4,000,000 loan, authorized by the act of July 10, 1871, in the improvement of streets and the building of sewers, an act of the legislative assembly was passed authorizing the issuance of \$2,000,000 of what were called 'certificates of indebtedness,' the payment of which was secured by a pledge of the assessments upon property adjacent to the improvements. Again, after exhausting this device for the payment of contractors, the legislative assembly, by an act, divided the cities of Washington and Georgetown into sewerage districts, and levied a tax upon the various sewerage districts, varying in rate from 5 to 20 mills upon the square foot, although at the time this act was passed nearly one-half of the entire sewerage system was completed as contemplated by what was known as the comprehensive plan, submitted to the legislature in 1871, as a basis of the \$4,000,000 loan, which expressly included a system of sewerage. By this device

\$2,120,000 were added to the assets of the board of public works, and were disbursed to contractors, except about the sum of \$500,000 thereof. Various other acts were passed of a similar character, involving smaller sums, and by this system of credit upon credit, or rather debt upon debt, the board continued its vast operations, the result of which has been to create a debt for which the board of public works and the District, in one form or another, are liable, and when added to the other floating indebtedness of the District, together with the funded indebtedness, aggregates not less than \$18,000,000 instead of \$10,000,000, as limited by the act of Congress of May 8, 1872."<sup>1</sup>

With this view of the situation, with the fact before them of an exhausted treasury and a largely expanded debt upon the people of the District, and in spite of the enhancement of the capital as a place of residence and the essential improvements which were attempted in a brief space of time when years should have been occupied for their completion, the committee, without precluding the idea that there should be some form of representative government in the District, recommended the abolition of the executive, the secretary of the District, the legislative assembly, the board of public works, and the office of delegate in Congress, and the appointment of a commission to manage the District affairs until Congress should have time to frame a proper form of government; for the committee had arrived unanimously at the conclusion "that the existing form of government is a failure; that it is too cumbrous and too expensive; that the powers and relations of its several departments are so ill-defined that limitations intended by Congress to apply to the whole government are construed to limit but one of its departments; that it is wanting in sufficient safeguard against maladministration and the creation of indebtedness; that the system of taxation it allows opens a door to great inequality and injustice, and is wholly insufficient to secure

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<sup>1</sup> Investigation, etc., 1874, pp. xii, viii, xiii, xxviii.

the prompt collection of taxes; and that no remedy short of its abolition and the substitution of a simpler, more restricted and economical government will suffice."<sup>1</sup>

Four days after the presentation of the committee's report its recommendation was adopted in an act of Congress ending the short life of the territorial government, and appointing a commission of three persons to administer affairs. At the same time provision was made under which the present form of government by three commissioners was established July 1, 1878.

An experiment had been tried in negro suffrage and it had failed, and failed in such a manner as to tinge with prophecy the words of Johnson in his veto message. Men fresh from the plantation, where they had had absolutely no schooling in the duties of citizenship, men without any interest of associations or property in the welfare of the District beyond the fact that they expected to make a living there, had been at one stroke clothed with powers equal not only to those of their race who in spite of "the black code" had by urban life been placed far in advance of the field hand, but also to those of the white race, who, having enjoyed for centuries all the elevating gifts which usually are evolved from education and wealth, were best qualified to realize what would most conduce to the welfare of the community. This latter class, it may be argued, had not always displayed the wisdom which they should have possessed, but this may be explained to some extent. There are gradations among the whites just as there are among the negroes, and there are few municipal governments in which the element, which naturally should be expected to lead in public affairs, are moved to do little beside holding mass meetings before elections and indignation meetings afterward, in the meantime neglecting the most important work of elections,—organizing the voters and seeing that all the votes are cast. But the white people of Washington.

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<sup>1</sup> Investigation, etc., 1874, pp. viii, xv, xxviii, xxix.



even had they been united politically or had community of interests, had done little in seventy-odd years to raise Washington much beyond the grade of a village, and the municipal governments were far from perfection.

Just as in the case of the negroes, there were three distinct classes of whites in the community,—the conservative element of education, wealth or refinement, the employes of the government, and a mixed aggregation of the elements which had made the Snow riot in 1835 and other overt acts against the negroes a possibility, the flotsam and jetsam of the armies, the hangers-on to politicians, and the adventurers of various sorts which had for years infested the capital. The extremes of the white race were as far removed from each other in affinity as was the white race from the negroes in color. Even before the extension of the suffrage the whites were divided politically, and afterward they did not unite their forces on public questions or at the polls as did most negroes. The reputable part of the community, even had they been of one mind about the suffrage, were powerless in the face of the determination of ruling spirits in Congress to push the special legislation for the negro to its utmost; and while it may be an easy matter now to point out that this or that should have been done, it is easy to understand with what despair the opposition saw the horde of ignorance turned loose upon the polls. It was a shock to their inherited and developed ideas to see the negroes acting as policemen and firemen or occupying positions in the local government, the legitimate fruits of a suffrage at a time when the theory that to the victors belong the spoils had unlimited sway. But it was not that which appalled them. Their great fear was based upon the fact that the negroes holding the balance of power, if not actually controlling affairs, were the real arbiters of the expenses of government and of the taxation of which they bore but a slight part, and they dreaded the results of such a rule, and this fear was not unreasonable when the situation is explained. For instance, in 1870 Washington, in a group of

the first twenty cities of the country, occupied the twelfth place in population. Of this the negroes constituted 32.46 per cent.,—the largest among the twenty cities, New Orleans being next, with 26.35 per cent. At the same time, of 37.71 per cent. of persons engaged in all classes of occupation in Washington, 23.90 per cent., the largest percentage in the twenty cities, were engaged in callings which cannot be said to add directly to the wealth of a city; while the percentage of those engaged in agriculture, manufactures and trade was much below that of the other cities. The preponderance of the non-productive elements was due to the incoming of the negroes, largely, though the presence of officeholders had not a little to do with it. At the same time, out of a population of 38,726 negroes in Washington and Georgetown, it was estimated there were 23,843 above 10 years old who could not write and a large proportion of them unable to read.

But the views of the whites regarding the suffrage were not harmonious by any means. While such a man as George W. Riggs was willing to say, "I think that the majority of voters here are incapable of self-government," and would have a government by a commission, another such as Walter S. Cox, favoring bodies elected by taxpayers, asserted that he did not intend to discriminate against colored voters, and added, "I should be for allowing all to vote who were obliged to share in the burdens of government. I know," continued he, "a great many colored people in Georgetown who are as competent to vote as the white people of the same class." He considered them generally orderly and industrious, although he had no doubt that a great many of those who had recently arrived in the District from the surrounding counties were too ignorant to be properly qualified to vote. "If I had my way," he said, "I would make both property and intelligence qualifications for all voters."

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<sup>1</sup> Investigation, etc., 1872, pp. 692, 701.

Though these opinions varied as to the remedy for the existing evils, they practically coincided as to the influences which demanded a change, and their echoes are heard whenever the agitation for local self-government finds utterance in the halls of national legislation. As recently as the winter of 1890 the Senate, while discussing a resolution referring to the Commissioners of the District, was given a review of the question of negro suffrage by some of those who had done so much to bring local government to an end by their recommendations, and by others whose memories reached back to that time.<sup>1</sup> The text of the review was given by Mr. Ingalls, who said: "The experiment of popular suffrage was tried here for a number of years, the experiment of a representative local government was tried here, and after many years of experience it was deliberately abolished by the concurrence, and I think the unanimous concurrence, of both houses of Congress acting in their constitutional capacity as the rulers of this District, and with the approbation of all the people of the District except those men who wanted to be in local office. . . The subject was considered from alpha to omega, and the investigation resulted in the unanimous conclusion that under the conditions which existed here it was wise that Congress should resume the function it had abdicated."

Mr. Stewart, of similar mind, alluding to the right of suffrage for which Mr. Blair had pleaded, said that he had seen it at the capital, "when it was in the hands of the people, and they were called upon to elect a vast number of officers, and they made worse mistakes here than elsewhere. Perhaps the condition was peculiar at the time. There had been a large addition to the voters of people unaccustomed to exercise the right of franchise, but they showed the same incapacity here that they do everywhere to select the large number required of them."

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<sup>1</sup> Congressional Record, Dec. 1890, pp. 171-77.

Mr. Morgan then undertook to review the matter, and phrased his opinion thus: "That local government became corrupt and abominable and disgraceful, an eyesore, a rebuke, a disastrous commentary upon civil government. It was called the 'feather-duster legislature,' and it had about it so many ludicrous phases, and it was so the subject of general reprobation and ridicule, that it could not be tolerated any longer. It was abolished by an act of Congress, and the pendulum swung to the other extremity." He asked Mr. Allison what was the leading circumstance that caused this entire change, and the Senator from Iowa, who had been a member of the second investigating committee, in reply said that there had been a great many circumstances, though he thought the chief thing was that there was an enormous debt of the District and of the cities of Washington and Georgetown. He did not know precisely what the Senator from Alabama had in his mind in asking for the chief motive on the part of the investigating committee for changing the government, but he added that "it was absolutely necessary to destroy every existing government here in order to have a settlement of the situation at that time." This action was characterized by Mr. Morgan as similar to the method of stamping out disease among cattle by slaughtering every animal which should be in any way likely to be affected.

"To burn down the barn to get rid of the rats," interjected Mr. Ingalls.

"Yes," retorted Mr. Morgan; "to burn down the barn to get rid of the rats, and that is what was done in this case, the rats being the negro population and the barn being the government of the District of Columbia, 'the feather-duster legislature.'"

"That is the Senator's inference and not mine," was Ingalls's comment.

"It was so palpable," said Mr. Morgan, "that the Senator from Kansas had expressed what was in the mind of the Senator from Iowa that I could not refrain from applying

the allusion of the Senator from Kansas to the Senator from Iowa."

Continuing, he contended that there had been no occasion for depriving every white man in the District of his right to vote, but that all the bad material in the electoral power should have been extirpated, and he added some statements which seem largely borne out not only by the facts elicited in 1872 but by the traditions still current in Washington. "Now, the historical fact," he said, "is simply this, that the negroes came into this District from Virginia and Maryland and from other places; I know dozens of them here now who flocked in from Alabama in that period of time. The invitation being a very urgent one to them, they came in here and they took possession of a certain part of the political power of this District; that is to say, they did not take possession of it, for they were incapable of doing that; but their masters and owners, the owners of their consciences, having stronger bonds upon them than their masters had ever had upon their persons while they were in slavery, took them and put them as a factor, a political power and agency, into the administration of the affairs of the District of Columbia, and there was but one way to get out, so Congress thought, so this able committee thought, and that was to deny the right of suffrage entirely to every human being in the District and have every office here controlled by appointment instead of by election. Thereupon in the face of this influx of negro population from the surrounding States, the Senate and the House of Representatives, in order to preserve property rights and the decency of administration in the central government of the United States here around the very footwalls of the Capitol, found it necessary to disfranchise every man in the District of Columbia, no matter what his reputation or character might have been or his holdings in property, in order thereby to get rid of this load of negro suffrage that was flooded in upon them. That is the true statement. History cannot be reversed. No man can misunderstand it."



The blame for the condition of affairs reflected in this debate cannot be placed entirely upon the negroes. It is not surprising that they should have thronged to the polls at the first opportunity to do so. They had been a political question ever since the compromise of 1787, and during the conditions resulting logically from that compromise they had been induced to regard the government as their particular patron and the party in power as their savior. When that party, after a debate which could not have failed to arouse their deepest interest even as it percolated to them through hearsay, placed the ballot in their hands, it was the most natural thing in the world for them to seek to exercise their newly-acquired privileges; and as the act of Congress tended to increase the antagonism to them of those who from a political standpoint would have been wise in obtaining control of the new voters, if that had been possible, it was not strange that the new citizens, particularly those who were latest from the plantation and most deeply submerged in the consequent ignorance, should have become the dupes and tools of those among the whites or of their own race who in all modern politics thrive upon the lack of intelligence of their followers, or should have come under the malign influence of the adventurers who thronged to the capital towards the close of the war and in the following years.

There were, indeed, in political affiliation with this combination of greed and ignorance, men who, because of the historic position which their party had assumed, felt obliged from policy or principle to place themselves in line with the newly enfranchised; but however reputable they may have been they could do little had they desired to stem the current which was carrying the local government to ruin.

At the same time no one is now inclined to doubt that much of the grandeur and beauty of the national capital is the outcome of the activity of the board of public works, which was made effective by the votes of this very element in which there was so much danger. The first investigation

had revealed the causes of the condition of the District exposed to the second, which the committee considered "chargeable to the attempt early made by the authorities placed over it to inaugurate a comprehensive and costly system of improvements to be completed in a brief space of time, which ought to have required for its completion several years."<sup>1</sup> One line in every report of the Commissioners of the District is a reminder of the times between 1867 and 1874, and in spite of the exhibit made eighteen years afterward in the symmetry and beauty which appear on the surface at Washington, it is difficult for the unprejudiced mind to reach any conclusion but that the experiment, which ended in the loss of suffrage for all, was untimely, and that its expense may be best measured in the financial condition of the government at the capital when it ceased to be a territory.

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<sup>1</sup> Investigation, etc., 1874, p. viii.

## VI.

### A GENERATION AFTERWARD.

Under ordinary circumstances twenty-five or thirty years form a very narrow period in the life of any race upon which to base a criterion of it. A generation after the battle of Hastings, after the French Revolution, or after the events of 1776 in this country, would contribute but little to the total of the advancement of the races which were affected respectively by such changes. Since the war, though, the history of this country has been one of wonderful progress in many directions, as well as of retrogression in others, for the white race, and the same may be said of the negro race. At the capital the conditions of the two races have been as similar as the strong arm of the national government could make them, and there consequently is presented an excellent field for forming an estimate of the negro's achievements or failures. This may be done only by comparison, remembrance being had at the same time that the preparation of slavery for the struggle of negroes on equal lines with whites represents but a small fraction of the centuries through which Anglo-Saxon civilization has reached its present stage, and also that the advantages and opportunities suddenly conferred upon the negroes were those, which were the natural heritage of white Americans and which had been of gradual growth, preparation keeping pace with attainment.

In modern times, when among civilized races physical force has become of secondary consideration, the weapons of evolution are wealth, education, and suffrage. The last has been eliminated from the question in the District, the opportunities for education by the State are equal for both races, and the government lends its aid to such an institution as Howard University for the higher education of the negroes. Because the capital city has assumed the character

of a place for residence rather than for any other purpose beyond the phases of departmental and congressional life, there have been but few means there for acquiring wealth legitimately except in the execution of contracts until the territorial government ended, in the ownership of real estate or in the various lines of retail trade. The aggregate wealth of the negroes, therefore, represents in large measure the enhancement in the value of their real estate and the improvements upon it. In 1861, of the \$54,000,000 assessed valuation, about \$650,000 represented property of negroes, and their churches were worth \$75,000. Of the \$153,307,541 assessed valuation in 1890, they owned at the least \$8,000,000 as far as may be estimated, and one of their churches alone is valued at much more than the whole wealth of that kind thirty years ago.

Owners of real estate range from the humble workman who cannot read or write, who holds his property by gift or purchase in days before the war or immediately subsequent to it, to the capitalist who is in a position to employ a white agent to attend to his property. The complaint that agents have combined to prevent negroes, on account of their color, from renting dwellings in certain localities must have been based, if entirely true, upon action in recent years, if one may judge by the results of a stroll in nearly any section of the capital. For police purposes the District is divided into nine precincts, and the figures of the last census show that in five of these the proportion of negroes to whites is beyond that of the whole number in the District to the entire population. The exceptions are in the first and sixth precincts and in the seventh, which include the oldest portion of Washington and Georgetown, and in the ninth, which comprises much of the recently developed section of Capitol Hill, or the northeastern part of the city. That of the 30,000 population in 317 alleys the majority are negroes is explained by their poverty. There may be a combination, but it is not because dealers in property do not regard the negro's money as good as the white's. The

desire to own a home, as shown as early as 1867, when one-fifth of the owners of real estate in the city were negroes, is a mark of the stability of purpose of some of the race, and its maintenance is a monument of thrift and industry most marked perhaps among the elements representing the old ante-bellum slaves and free negroes, but by no means confined to them.

The experience with the Freedman's Bank, remembered in sorrow by many a negro, may perhaps be the reason why the negroes have preferred to do business with established banking houses of the whites, and make some provision for their families by joining the Odd Fellows, organized before the war, or the many beneficial societies which their race has produced. Undeterred, though, by this apparent disadvantage, a number of negroes organized in October, 1888, a savings bank with an authorized capital stock of \$50,000, of which \$32,000 have been paid up. During the first year \$117,000 were deposited in this bank, and in 1892 the deposits amounted to more than \$317,276. In a statement recently issued the fact was announced "that the bank has steadily grown in popular favor and public confidence is evidenced by the class of men who have lately become its patrons, and by the fact that different charitable and social organizations as well as business enterprises are making this bank their place of deposit." Private bankers also do business. Though at least one establishment controlled by white men has employed a negro as a salesman, there is a tendency among some of the negroes to branch out into lines of trade for themselves, and they would doubtless be successful if they could secure the hearty cooperation of their own race. The lack of this may be found to be the fault of both parties to the undertaking. They have, however, engaged in many other lines of business beside running barber shops or cobbling, and among them may be found dry goods merchants, contractors, grocerymen, real estate men, and dealers in the market, the last including the comfortable-looking proprietor of a stall within the market building and



the vendor of herbs and garden "sass" on the outside, an excellent type of the survival of the suburban negro of thirty years ago. Recently some of them have started a house-cleaning bureau, and they announce that this bureau "has selected with great care and pains an efficient corps of able-bodied workmen, and is prepared to make monthly or yearly contracts to clean new and old houses, wash windows, take up and put down carpets, scrub floors, wash paints, or do any other work required about a house. Special arrangements will be made for sweeping and dusting office rooms in public buildings, and for furnishing boys to run errands, either by the hour, day, or week."

Not a few of the race have increased their means by careful investment, some by money earned by them and saved with prudence, by inherited property or by a due appreciation of the friendly aid extended them became possessors of hotel properties, which are used by the whites, and one of these, which was long famous as a first-class hostelry, particularly for people of wealth and refinement, was the result of the life work of a man who started most modestly and whose later reputation as a caterer is still remembered by some of the older inhabitants.

This accumulation of wealth in some sort or another has resulted in a class of negroes competent to enjoy many of the refinements and comforts which have made the respectable middle class of whites in this country the conservative element in the community, and the mimetic powers of the negroes have made the gradations in their society similar to those of the whites, though complexities are added by a survival of the feelings generated in slavery and by the influx from all parts of the country of educated negroes who have obtained employment in the several departments of the general government. They have their clubs, from the fashionable resort fitted with the usual conveniences of such resorts, where great men of the race, including Pete Jackson or a foreign minister, are specially entertained, to the obscure places devoted to gambling; and though the Bethel

Literary Society, now in its twelfth year, is not only an influential power, socially and educationally, the beneficial societies or similar organizations appeal strongly to the great majority of the negroes. The social extremes are wide apart and present sharp contrasts. At one time a church may be thronged with a dignified congregation, displaying gowns of the most approved fashion, the work, perhaps, of negro seamstresses, some of whom are among the best in the city, to witness the marriage of a daughter of a man who has made his money by shrewdness and enterprise, to a member of the younger generation who has had to depend upon brain and perseverance to make his mark. The bridal costume is a real gown, the diamonds are real, and the number of the carriages as they carry the guests to the reception is as distinctively matrimonial as if their occupants were whites. Let a perambulatory piano strike up a lively air in any part of the town almost, and it is soon setting the pace for two or three or more negro girls of fourteen years or younger, who tickle the fancy of passers-by or the crowd which collects by their gyrations, their flings and shuffles, which would put a Lottie Collins to the blush. Let a band of music, good, bad or indifferent, sound its notes on any highway, and immediately it is surrounded by a mass of half-grown men and women, frequently in rags, their heads and bodies swaying in time with every note, particularly of the bass drum or of the trombone, which seems to appeal peculiarly to their hearts, slipping, sliding, executing impromptu waltzes, laughing and shouting. They appear so suddenly that they may be said to spring almost from the asphalt, and it is a debatable point whether the community would suffer should one of the musicians become a Pied Piper and lead the throng into the bowels of the earth, never to appear again.

It is unfortunate for the negro that outside of the professions about the only vocations paying salaries or wages in Washington open to anybody are those of clerks, salesmen, officeholders, laborers or servants of one kind or

another. The practical exclusion of negroes from the first two classes is due to a preference of white people for whites, as well as to the presence of a number of white men and women sufficient to meet the demand for such services, and the willingness of a former mayor of Washington to hold a subordinate position in a department or of an ex-clerk in the treasury to be a street-car conductor is a manifestation of the ups and downs of political life in Washington, which hedge out the negro from other lines of competition and livelihood. The development of industrial training in the public schools, while theoretically an excellent idea, practically seems to lose its value partly if the pupils intend to become artisans and mechanics, at the same time remaining in the District; for there is a limit to their employment just as there is a limit to the number of negro doctors, lawyers, teachers, officeholders, and ministers who may find profitable employment. Washington is not a manufacturing city in the strict sense of the term, though there has been an increase of industries in the past ten or twelve years. The census of 1890 deals with 115 of them, employing 23,477 hands in 2300 establishments and paying \$14,638,790 wages. The important industries were brick and tile-making, carriage and wagon factories, flour and grist mills, foundry and machine shops, lumber mills, employing a total of 2393 hands; lithographing and engraving, printing and publishing, with 3724 hands; bottling establishments, malt liquor breweries, 328 hands; and confectioneries, 349 hands. The situation of negro men in this respect, lamentable as it may be, is even better than that of the women. The principal of the Normal School at one time expressed the belief that the young girls of her race were peculiarly situated in that "they have no avenue open to them in this city by which a livelihood can be obtained outside of the school-room and menial positions"; and it is interesting to compare that statement, which has a tone of regret about it, with that of Arabella Jones, in 1852, who realized that in that age females were naturally destined to become mothers

or household servants, and that for either position some education was necessary. But the question arises whether an education which carries pupils to a point where their legitimately acquired ambition has but limited means of gratification is not only harmful for the individuals, but a possible source of danger to the community. May it not also be the case that, as so frequently happens with others, the negro has mistaken the means of education for education itself, and thought that the training of the memory would develop the faculties of judgment and reason?

The secular education offered by the public school is after all preparatory for real culture, which must be had by the intercourse of everyday life in the family, in associates, in trade or business, and in the church relations. In the District their churches have been the centers in which many of the movements of the negroes have been formulated, and from their pulpits have frequently been sent the battle-cry for the race whether in the District or for the country at large, and there, too, have their quasi-leaders uttered the sentiments designed for use in the national political arena. Their churches have also been the places for a cultivation of their social instincts, and although in recent years some of the race have built a hall especially for their meetings, the mass still abide by their historic rendezvous. The simple structures, about a dozen in number in 1861, have increased in pretentiousness and number nearly ninety, ranging from the small building in a neighborhood inhabited by the lowliest of the race, to the more costly ones in modern style and of substantial architecture in the vicinity of the fashionable residence sections of the city. Some of the pastors are men of marked ability as preachers, and their congregations are large and enthusiastic. The negroes appear to cherish the forms of religion which appeal to their heart and emotions rather than those which require more exercise of the mind,—excepting the Catholic, on the one hand, and the Congregationalist on the other; and though the bush meeting is losing its hold upon the more cultivated of the city



folks, it still has an attraction for those in city or country who have not drifted from the traditions of slavery. The statistics of some of the churches well illustrate this condition. The Baptist body has 13 white churches and 42 negro ones, the Methodists of all stripes 23 white and 36 negro, the Episcopalians 24 white and 3 negro, the Presbyterians 18 white and 1 negro, the Lutherans 12 white and 1 negro. The remarkable contradiction in the situation of the Catholic body, which has but one negro church, and of the Congregationalists, whose churches are about equally divided between the two races, has been mentioned previously. The efforts of earnest workers among the negroes to reach those who may be of influence hereafter has resulted in the organization of a Young Men's Christian Association and the occupation of a building in a once notorious locality, the character of which has been materially changed by the personal endeavor of the pastor of a Congregationalist church; within a few weeks a young negro, devoted to missionary work among his people, has spent much of his time in the establishment of a home for the unfortunate negro women for whom no other provision of the kind exists in the District; and these movements, like that of negro women connected with the Woman's Christian Temperance Association, are evidence that the highly flavored rhetoric of the pulpit and the exultation of the pews associated with many of the churches of twenty years or more ago are giving place to the more practical expressions of religion, which may be increased by the non-sectarian union of the preachers who hold their meetings in the hall of their Young Men's Christian Association.<sup>1</sup>

The newspaper, generally regarded as a great educational factor, has not attained a great growth as an undertaking by negroes. This has been due not always to lack of capabilities on the part of the editors, or to the tendency to

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<sup>1</sup>The Protestant Episcopal Church, in its preparatory school for negro clergymen at King Hall, seems to be nearing a solution of the church question as far as that body is concerned.



indulge in personalities and political debates not of an edifying character. The newspaper readers of the race have generally preferred to confine their support to the papers published by the whites because more is given for their money; their own publishers have thereby missed so much of that support or part of it, and it is not surprising that two weekly publications represent at present the secular press of the negroes at the capital.

To their religion, to the refining influences of wealth and education, and to the example of the more favored of the race, the negroes have been obliged to look for guidance and assistance in the development of their morality.

Early in the years of their emancipation Congress took steps to remedy whatever defects in the bases of morality among the negroes had been bequeathed by the extinct system. The act of July 25, 1866, provided that all negroes in the District who, previous to the act of April, 1862, had agreed to occupy the relation of husband and wife, and who were living together as such, or recognizing the relation as still existing, whether the rites of marriage had been celebrated between them, should be regarded as husband and wife and should be entitled to all the rights and privileges and subject to all the duties and obligations of the relation just as if they had been married according to law. All their children, whether born before or after the passage of the act, were to be deemed legitimate were the parents still living together. If the mother had died or the parents had ceased to live together for any other cause, all children of the woman recognized by the man as his should be legitimate. This provision may have been efficacious in settling relations for the forming of which abundant opportunity had been presented in the swarming of the new population from the fields, but was really no deterrent for those who followed in poverty and ignorance their natural instincts, careless in their thought for the morrow, and living in a style which was of a character to dull the sense of personal purity even among individuals of a more advanced type.

Their poverty and accessions to them of ignorance from near-by regions have been a great incubus upon the negroes as a whole. It is estimated that in 1867, of 32,000 negroes in the District one-half were destitute, and the removal of contraband families five years before from the camps in the city to a point across the river was the origin of a negro orphan asylum,—nearly fifty children being left with no parents to claim them. It was part of the task of the Freedman's Bureau to relieve this distress, and on March 16, 1867, Congress appropriated in one lump \$15,000 for the relief of the freedmen in the District or of destitute negroes under direction of the Bureau. There was at the same time considerable destitution among a class of whites, and it was even charged that some of the funds designed for the negroes had gone in this direction. Their destitution has not been remedied to any great extent, and of the 16,000 persons in the District now who are believed to be without visible means of support the great majority are negroes. The extent of pauperism is shown in the number of negroes who eke out a livelihood from their pickings on the dumps, and by such a picture as was presented in April, 1891, when in one room of a one-story shanty were found one day a dead infant, and five grown persons and six children suffering from the influenza which prevailed at that time. The police have probably the best machinery in the District for unearthing poverty and misery and for aiding in applying relief, but though the cases of sickness and destitution reported by them as sent to the hospitals show that the whites have been in a majority in recent years—1891, for instance, furnishing 1440 white cases and 1132 negro ones—the report of the health office reports show another phase of the question, the physicians to the poor in the same year treating 4641 whites and 8597 negroes, and of the total of 17,048 surgical and medical cases receiving aid from the seven dispensaries receiving District aid 12,033 being negroes. The total number of cases treated by the physicians to the poor between 1883 and 1891 was 45,410 whites and 93,970 negroes.

While the death rate for both races has decreased in the past sixteen years, the larger rate of the two has been and is among the negroes,—in 1891 it being 32.68 for the negroes and 18.27 for the whites. The death rate among the negroes is largely increased by infant mortality, and this the health officer attributed in 1889 to a great extent to the location of negroes in the alleys and unhealthy parts of the city, and this was due to their poverty, which, however, is not such as makes them willing to go to the almshouse, apparently, as in 1890 of the 273 inmates received but 98 were negroes, and in 1891 of 182 inmates 81 were negroes. Various means have been adopted to meet this emergency of poverty, one of the latest being the National Association for Destitute Colored Women and Children. The hospitals which admit both races render efficient service, a good idea of this being given by the report of the Freedmen's Hospital, which deals with charity cases, and to which were admitted in 1892, of a total of 2539 patients, 1970 negroes.

It is not surprising that the conditions born of poverty have contributed largely to the development of immorality and crime in spite of the influences of church life, but when the statistics in these fields are examined other causes must explain the figures, startling in some respects.<sup>1</sup> In thirteen years the number of legitimate white births has increased from 2068 in 1879 to 2440 in 1891, and the illegitimates from 49 to 73; while the number of legitimate negro births has decreased from 1400 in 1879 to 1371 in 1891, and the number of illegitimates has increased from 299 to 460 in the same years. The respective populations have increased in about the same proportion, the negroes remaining about one-third of the total. The per cent. of illegitimacy to total births has decreased from 12.5 to 12.3, the per cent. of illegitimacy to total illegitimacy by color has decreased for the

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<sup>1</sup>The following tables, derived from the Report of the Health Officer of Washington, will prove interesting for the student of this phase of the question, some of the figures of population being approximate:

Year.	Births.	Still-births.	BY COLOR AND LEGITIMACY.							
			White.				Negro.			
			Births.		Still-births.		Births.		Still-births.	
			Legitimate.	Illegitimate.	Legitimate.	Illegitimate.	Legitimate.	Illegitimate.	Legitimate.	Illegitimate.
1879	3,816	395	2,068	49	112	18	1,400	299	171	94
1880	4,095	358	2,241	56	105	14	1,456	342	159	80
1881	3,595	370	1,961	53	125	16	1,274	307	143	86
1882	3,391	351	1,747	53	124	16	1,277	314	146	65
1883	3,116	362	1,631	53	136	18	1,132	300	139	69
1884	3,224	351	1,684	63	123	9	1,196	281	141	78
1885	3,334	391	1,805	56	154	25	1,136	337	127	85
1886	3,516	406	1,916	65	149	15	1,184	351	138	104
1887	3,728	406	2,022	70	127	22	1,288	348	146	111
1888	3,670	458	1,964	71	156	26	1,262	373	155	121
1889	4,001	443	2,098	78	137	20	1,397	428	163	123
1890	4,070	474	2,171	75	172	11	1,341	483	181	110
1891	4,344	440	2,440	73	154	18	1,371	460	157	111

Percentages may be studied in this table :

Year.	POPULATION.		Per cent of illegitimacy to total births.	Per cent of illegitimacy to total births, by color.		Per cent of illegitimacy to total illegitimacy, by color.		Per cent of white illegiti- mates to white births, and negro illegiti- mates to negro births.	
	White.	Negro.		White.	Negro.	White.	Negro.	White.	Negro.
1879	115,247	57,130	12.5	1.31	7.83	14.0	86.0	2.32	17.60
1880	118,236	59,402	12.0	1.38	8.35	14.0	86.0	2.43	19.02
1881	121,300	61,760	12.9	1.47	8.54	14.8	85.2	2.63	19.42
1882	124,441	64,212	12.3	1.60	9.26	14.4	85.6	2.09	19.73
1883	126,300	65,680	14.1	1.74	9.63	15.0	85.0	3.14	20.95
1884	130,700	69,300	13.4	2.00	8.70	18.3	81.7	3.60	19.02
1885	132,700	69,300	15.0	1.68	10.18	14.3	85.7	3.00	22.88
1886	136,000	69,300	15.2	1.85	9.98	15.6	84.4	3.28	22.86
1887	140,000	70,000	14.8	1.83	9.33	16.7	83.3	3.34	21.27
1888	145,635	72,522	16.1	1.93	10.16	16.0	84.0	3.49	22.18
1889	149,000	74,000	12.7	1.95	10.70	15.4	84.6	3.59	23.45
1890	154,352	75,600	13.7	1.84	11.90	13.4	86.6	3.34	26.50
1891	170,000	80,000	12.3	1.68	10.70	13.7	86.3	2.90	25.12

whites and increased for the negroes, while the per cent. of white illegitimates to white births has increased from 2.32 in 1879 to 2.90 in 1891, the highest per cent. in that period having been 3.59 in 1889, and the per cent. of negro illegitimates to negro births has increased from 17.60 in 1879 to 25.12 in 1891, the last figure having been exceeded most in 1890, when the per cent. was 26.50. Of course, the statistics of illegitimacy do not include all cases, as the finding of 98 dead infants in 1888, 71 in 1889, 69 in 1890, 75 in 1891, and 97 in 1892, and the reports of abandoned infants prove. These amounted in 1888 to 5 negro and 1 white, in 1889 to 8 negro and 2 white, in 1890 to 3 negro, in 1891 to 1 white and 3 negro, and in 1892 to 19 negro and 1 white. This condition of affairs is attributed to the practical absence of any penalty for seduction or adultery beyond that relating to girls under 16 years of age, and of provision compelling the father to support his illegitimate child, and the abandonment of infants to die or fall into the hands of the police has been traced to servant girls who were unable to keep their children with them while at work, and the cases of still-birth are said to have been due to heavy lifting and overwork, particularly among negro women.

The general statements about immorality may be applied to those relating to crime.<sup>1</sup> In 1877 the negroes furnished

<sup>1</sup> The statistics of crime for fifteen years may be studied in the following table:

YEAR.	POPULATION.		ARRESTS.	
	White.	Negro.	White.	Negro.
1877	109,505	52,870	7,523	5,460
1879	115,247	57,130	8,485	4,125
1880	118,236	59,402	7,914	3,644
1885	136,271	67,388	13,189	10,036
1887	140,000	70,000	10,819	9,156
1888	145,635	72,522	10,572	9,958
1889	149,000	74,000	10,719	10,431
1890	154,352	75,600	11,764	12,608
1891	170,000	80,000	11,546	13,620
1892	173,610	84,821	12,415	14,251



42 per cent. of the whole number of arrests, and in 1892 they furnished 53 per cent., and while between those years the negro population has increased 62 per cent., the number of their arrests has increased 161 per cent., the proportion of the negro population to the white remaining relatively the same. More minute study of the statistics of the occupations of those arrested shows that those which are monopolized by the negroes furnish the largest number,—the arrests in 1877 being 3905 laborers and 788 servants, and in 1892 being 9068 laborers and 1856 servants, while those having no occupation were 270 in 1877 and 1021 in 1892. Commenting on this in 1890, the superintendent of police said that "the meanest of all crimes, petty pilferings and thefts, constitute the most frequent annoyance to the citizen, housewife, hotel-keeper and stranger here. Dishonest servants are in a great measure responsible. The sneak, of whom there are so many, belongs to that class of loafers who play 'crap' and hang about low-down grogeries and resorts during the day and steal under cover of darkness." Of the greater criminal cases, while the whites have furnished the greater proportion of arrests for forgery, embezzlement, and false pretense, the negroes are in the majority of those arrested for crimes of violence. Nine whites were charged with murder in 1888 and 10 negroes, in 1889 5 whites and 14 negroes, in 1890 12 whites and 7 negroes, in 1891 1 white and 6 negroes, and 1892 showed a marked exception, 12 arrests on this charge being of whites and 5 of negroes. The negroes in the workhouse preponderate. For this disproportion of negro arrests the superintendent of police, in his report for 1891, believes the neglected state of the negro child and youth is responsible to a great extent. "This is evidenced," he says, "by the fact that out of 228 cases where petit larceny was charged, 192 were against colored children under 16 years of age, and out of 330 charges for the same alleged commissions, 260 of the accused were between 18 and 21 years of age. On the other hand, while the colored youth take to theft,

the white youth takes to drink. Out of 12 cases of intoxication where the persons were under 16 years of age, 7 were white and 5 colored; 104 out of 185, where the persons were between 18 and 21, were white; while the whites over 21 years were extreme, representing 2769 cases in a total of 3440. A strange feature in this matter is found in the fact that, while the white breaker of the peace is disorderly generally when under the influence of liquor, the colored representative creates disturbances without the invigorating influence of drink."

The superintendent of the negro schools in 1890 seemed to realize the same facts, and he deduces from a report of the preceding year that the offenses committed by the negro youth were such "as the school-room, in its greater removal from opportunity, would have largely furnished a preventive," and adds that "it is but a reasonable inference that, as a rule, the first step to the causes leading to these arrests is idleness, and that in its continuance the step to the greater and more aggravated offenses, which the remaining cases of arrests embrace, becomes not only easier, but more and more probable. The school-room, to the extent it discourages idleness in the employment it affords, may contribute to the diminution of crime; but there must be recognized other and graver causes for it—causes that are wholly beyond its pale. After leaving it, conditions, imposed through inability to earn a livelihood, may force to the street, and thus very measurably shorten the distance to the prison."

This theory seems to be sustained by the figures of illiteracy of those arrested in recent years, for in 1877 of those arrested 8707 could read and write and 4276 could not, and in 1892 20,587 could read and write, while 6079 could not, an increase over 1891 of 206, and over 1890 of 2362, intervening years showing similar variation.

As long as comparisons of immorality and crime may be made with the whites it cannot be said that these phases of life are peculiar to the negroes, and their environments are

such as to assist them materially in whatever inclination they have to imitation. In the case of immorality alone the great majority of the mulattoes are innocent memorials of the disgraceful example in vice set the negroes by members of the white race before and since the war, and the presence of great armies at or near the capital during the war could not be regarded, as a general rule, as likely to furnish recruits from an ignorant and poverty-stricken race to the ranks of personal purity. Statistics on this subject are comparatively scarce, and may be partly explained by immigration. In 1807, of the 494 free negroes, 215 were mulattoes, but no distinction was made among the 1004 slaves; the census of 1860 showed 4500 mulattoes among 11,131 free negroes, and 933 mulattoes among 3185 slaves, a total of 5433 mulattoes in a negro population of 14,316. Of 43,000 negroes in 1870 it is estimated that 8032 were mulattoes, showing a decided proportionate decrease, and the census of 1890 shows 55,736 pure blacks and 19,836 negroes of mixed blood, of whom 1126 were quadroons and 721 octoroons. This is an increase over 1870. Some notion of the relation of the mulattoes to crime in the District is also given in the last census. There is no penitentiary in the District, but in the Reform School in 1890 were 68 whites, 119 negroes, of whom 82 were mulattoes; of paupers in the almshouse, 10 were white, 211 negroes, of whom 37 were mulattoes; and of inmates of the jail 19 were white, 169 were negroes, of whom 42 were mulattoes. This classification, though, Mr. Frederick H. Wines, the expert who prepared the special reports on this subject, thinks may not be exact.

While poverty, their previous existence without law as a rule, and the examples before them have doubtless contributed much to the active agencies against a great number of the negroes' progress to the plane occupied by the thrifty, educated and conservative middle class, other drawbacks have existed in the want of solidarity among the negroes themselves; and while some may quote the saying that all

racess of the earth have been created of one blood, they seem to lose sight of the advantage of recognizing that the members of the particular negro race have been created of one blood. This state of affairs is an effect in part of the war-time distinctions, but the obliteration of these has been delayed by politics if they have not indeed been increased. The withdrawal of the suffrage from residents of the District by no means ended political life there. On the contrary, politics of the practical sort, robbed of all disguises of public policy or patriotism which usually are supposed to be the real issues upon which many voters divide, has too frequently been revealed as the bald struggle for personal preferment. This has not been confined to party or race, and the rival factions of negroes in separate Republican conventions sending contesting delegates to a national convention, but parallel rivalries among the Democrats with similar results, which, however, continue when preliminaries for inauguration ceremonies are to be arranged.<sup>1</sup> The negroes have not been the entire body of the party in the District with which as a general rule they have affiliated, and some curious contrasts are presented.

There are some negro Democrats, and a change of administration is likely to swell their ranks, if present indications are of value. The difference between the whites and the negroes in this particular is that the former do not permit differences, born of the heat of a campaign, to enter into their relations when a movement is started to benefit their community. Not so with the negro politicians, however. A study of the names prominent in their race's mass meet-

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<sup>1</sup> The restoration of the suffrage is frequently urged, and an organized movement to that end has been started. Experience, though, is likely to change the signal-cry of no taxation without representation, to that of no representation without taxation, should the citizens of the District be enfranchised, and it would not be surprising if at the capital the experiment were to be made of a suffrage limited only by property or educational qualification, or by both.

ings or in undertakings expressive of their ambitions and aspirations will frequently reveal animosities of politics, causing division of views about methods of material progress. A curious manifestation of this has been the dispute at times about the celebration of the District emancipation day, opposing political leaders marshaling their respective followers about differing opinions,—one faction insisting upon a parade, another believing only in a mass meeting, at which the very sensible programme included a distribution of prizes to the young folks for the best specimens of brain-work and handicraft, and the excitement reaching such a pitch at one time that one of the orators not only expressed the opinion “that there are a great number of negroes in this city who are unfit to be free,” but thought that if they continued “to follow brass bands and emancipation chariots and spend \$5000 for one day’s frolic or to demonstrate which is the biggest man,” there could be little improvement in their condition. The climax was reached, perhaps, in 1886, when it was determined to have two parades. The leaders of the rival factions sought to secure a promise from President Cleveland to review them, but they received the following suggestive letter at the hands of his private secretary:

“Sir: It having come to the knowledge of the President, to his regret, that the differences which have existed among certain colored citizens of this city concerning the parade on Emancipation Day are not likely to be harmonized, and that two processions are contemplated, he directs me to inform you that he will not take sides in the quarrel, and therefore declines to accept either of the invitations to review the parade. If, however, he can be assured that the differences have been adjusted, I am quite sure that it would give him pleasure to accept a joint invitation to review one procession in which all shall amicably participate.”

The wise advice half revealed in this letter was not followed, for the two parades took place, with brass bands and “queens of love and beauty” for both. The speech of



1891 showed that politics alone did not contribute to the dissension, and additional evidence of this was given in a letter of a few years ago, in which the writer took the ground that invidious distinctions were made in a parade of negroes only, which with its incidentals was demoralizing to the youth.

The same may be said about some of the other phases of agitation, for at a meeting in 1891, intended to assist the plan of the Educational and Relief Association of the District, which had in six months raised more than \$1500 for an institution of shelter and training for negro youths in destitute circumstances, a strong criticism was made of the absence of "men of means, of influence, of popularity, of name and fame," who should have been present, and though the association had, it was said, clothed and fed 225 children and placed 155 in the public schools, one of the speakers lamented the fact that so many seats in the church were vacant when a thousand persons should have been present. Just a year after that an opposite of this situation existed in a call issued for a lecture by a well known white leader of the negroes, the proceeds of which were to be devoted to the "Industrial Institute Association" and "The Children's Home." The men of influence, means and fame signed this call. It is one of the most unfortunate facts for the negroes in the District that there the "professional negro" has found his most congenial surroundings, and though the mass are beginning to appreciate the reason for his existence, they have not yet been able to loose themselves entirely from that impediment to their more complete emancipation. The agitator of the platform and the politician of the pulpit have not yet ceased to beguile their thousands or to scatter the seeds of disunion of a race. Some may be sincere in their utterances, but the complaints which rise now and then to the surface indicate that many negroes believe that others are not, and the more general such a sentiment becomes the better chance will the race have for harmonious development.

Lack of unity, the absence to a great degree of proper race pride, are the elements of weakness in the negroes, as shown by their history in the District. The two factors have no doubt been fostered by philanthropy, theoretical and practical, and by the preponderating use of the negroes as a campaign issue, which have led them to look to the white race rather than to themselves for advancement; but while dependence may aid an individual here and there, it is likely to hamper the real development of the mass, if it does not result in actual retrogression. The negro population at the capital is as complex as it is interesting. It embraces the pure African, the negro whose blood has been untainted since his family has been in this country, the mixture of negro, white and Indian, and the various grades of the mulatto, including the children or descendants of the white father and negro mother and the children of the white mother and negro father. The native free negro and freedman, the whilom contraband, the educated or uneducated negro from many sections of the country have found their home there and form distinct types which are commingled in other classes based upon education, wealth or political influence. Dependence based upon politics seems to be lessening in its intensity, and this change will tend to obliterate the distinctions and cross purposes which now exist, the discontent and petulance which crop out at the meetings intended to strengthen the negro's position. The want of harmony is deplored by members of the race who in public speaking seek to guide their fellows into right lines instead of using them merely as instruments for their self-aggrandizement; and one of the most significant, because truthful, expressions in this direction was that of a negro woman who spoke at a meeting on the first day of this year commemorative of the act of general emancipation thirty years before.

"The achievements of which we boast," said she, "are not enough in any line to make it patent to the world that we are advancing. The individual, however learned, accomplished or

wealthy, must, in a large measure, follow the condition of his race. The whole is equal to the sum of its parts, and if ninety-nine of those parts are poverty, degradation and ignorance, the one-hundredth part counts as nothing toward changing the result as a whole. Of the many things which may be said to militate against our race, all of them might be condensed into one sentence: 'Lack of true racial pride.' Lack of unity follows almost as a matter of course.

"Of no other race can it be so truly said that the hand of every other race is raised against it, and its own hand is raised against itself. Other races are proud of their history and antecedents; we seem to wish to get as far from ours as possible; other races struggling for a foothold unite for that purpose and strengthen each other against the common enemy. Our race, alas! will not unite on either commercial or material grounds."

Study of the history of one race which many centuries ago were in a condition similar to that of the negroes before the war, impresses one with the fact that in all their struggles they have been strengthened by pride of race, which is strictly maintained to-day. When they were contending against oppressive measures which have been but faintly mirrored in the history of the freedmen, their unity of blood kept them compact, and the same principle makes their race one of the most independent ones in America to-day. It will also be remembered that when this race had been led to the borders of the Promised Land, the man who had led them out of bondage and for forty years in the wilderness was taken from them. For this there may have been other reasons than the act in Zin. A settled race requires a different sort of leader from the ruler of a migratory body; and though the history of the negroes may never parallel that of the Hebrews, they may be prevented from enjoying the full fruits of the strivings of forty years or more by the fact that their Moses of one kind or another still is with them and essays to apply past methods of leadership to present conditions, which show a change to a wonderful degree.

Sir John Lubbock tells of a plant which sprouts suddenly to some height and then by its own weight sinks to its original level, and progresses firmly and steadily by tendrils, which it sends in all directions. It may be that the negro in the District is destined to follow a similar course, and that those who have been given or who have gained by their own exertions advantages of the best sort and who have shown the possibilities of their race, will see the wisdom of reaching down to their less fortunate brethren and of encompassing the whole body in a compact, healthy growth, bound together by the tendrils of education, refinement and material prosperity, which may be the great factor for the elevation of their race in the whole country.







V-VI

CHURCH AND STATE IN NORTH  
CAROLINA



JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
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HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History.—*Freeman*

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ELEVENTH SERIES

V-VI

CHURCH AND STATE IN NORTH  
CAROLINA

BY

STEPHEN BEAUREGARD WEEKS, PH. D.,

*Professor of History and Political Science,  
Trinity College, North Carolina.*

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# CONTENTS.

## CHAPTER I.

### INTRODUCTION.

Summary of an earlier paper on "The Religious Development in the Province of North Carolina," 7. Purpose of the present paper, 8.

## CHAPTER II.

### CHURCH AND STATE UNDER THE PROPRIETORS, 1711-1728.

Influence of Acts of 1711 on the Colony, 9. They legalize dissent by reaffirming the Toleration Act, 9. The Toleration Act; an "Act of Indulgence"; its value, 10. The first Church Acts met with rebellion; the latter fought along legal and technical lines, 11. The first Acts nominally repealed, but remain practically in force, 12. Vestry Act of 1715; parishes, vestrymen, oath, salary, tax, churches; reception, 13. Drawback to the work of the S. P. G. in North Carolina in the character of their missionaries, Brett, Blair, Gerrard, Rainsford, Taylor, Newman, Blacknall, and Bailey, 15. Biographies of Urmstone, Gordon, and Adams, 16. Bad influence of the missionaries on the people and on the development of the Colony, 22.

## CHAPTER III.

### CHURCH AND STATE UNDER THE ROYAL GOVERNMENT, 1728-1776.

Burrington made Governor in 1730; his instructions, 23. The eighty-second section re-enacts the Schism Act, 23. Terms of the Schism Act, 1714-1718, 24. Exasperating character of this Act and its probable enforcement, 24. Efforts of Burrington for an Establishment in 1731 and 1733, 26. The state of the Church and of the colony religiously, 27. Johnston made Governor in 1734; former instructions renewed, 27. His zeal for the Establishment leads him to misrepresent the Dissenters; their numbers, and character of their work, 28. Vestry Act of 1741; parishes, vestrymen, oath, tax, 29. Activity in ecclesiastical legislation; special taxes, 30. The Act of 1741 probably of little effect, 31. Dobbs made Governor in 1754; former instructions renewed, 32. The labors of Dobbs for the Establishment, 32. The ten years' fight over the Church laws, 32. This fight due to the contested right of presentation, 34. Evil influence on the Establishment, 35. Encourages Dissenters; their character in 1760, 36. Their method of fighting the Establishment, 36. The Vestry Act of 1764 and its probable cause, 37. Tryon made Governor in 1765; his views of toleration, 38. Schism Act renewed; and enforced in New Bern, 1766; in Edenton, 1768; rumb-

lings of discontent, 39. Martin made Governor in 1771; Church and Schism Acts renewed, 40. Schism Act enforced against Queen's Museum in 1773, 40.

Marriage Acts, 1669, 1715, 1741; discussion of the latter, 42. The limitations sought for in the Clergy Bill of 1762, 43. The Marriage Act of 1766; its reception; protests from Mecklenburg, Tryon, Anson, Orange, and Rowan counties, 43. The Marriage Act and the War of the Regulation, 45.

The inequality of Muster laws, 46.

The Quakers and the Affirmation; the case of Borden, 47.

Summary: Little direct persecution; note on the Baptists in New Bern, 48. Persecution indirect by (1) tithes, extent, by (2) Muster laws, in (3) the Marriage Acts, by (4) the Schism Act, 50. Both English and Colonial governments responsible, 52.

#### CHAPTER IV.

##### THE FALL OF THE ESTABLISHMENT.

The beginning of the end; Vestry Act of 1768 the last, 53. Gov. Martin's contrast of Churchmen and Presbyterians and argument for the better establishment of the Church, 53. Churchmen generally faithful to the American cause, 54. Dissatisfaction with ecclesiastical laws highest in Mecklenburg, 54. Their instructions to delegates to Halifax Conventions of April and November, 1776, 55. The latter adopts a constitution and provides for religious freedom, 56.

#### CHAPTER V.

##### EPILOGUE.

The work of the Constitution completed by Acts of Assembly, 57. The absence of a guarantee of religious freedom in the Federal Constitution provokes much hostility in North Carolina, 58. Attacks of Abbot, Caldwell, Lenoir and Lancaster answered by Iredell, Johnston, Spencer and Spaight, 58. North Carolina neither "to ratify nor to reject," but to propose a Bill of Rights and amendments; adopts Constitution after amendments are proposed by Congress, 60. The thirty-second clause of the State Constitution of 1776, 61. Gaston's summary of the interpretation of this clause, 62. Probably aimed at but not enforced against Catholics, 63. Gaston's interpretation and action in 1833, 63. Convention of 1835 substitutes "Christian" for "Protestant," 64.

BIBLIOGRAPHICAL NOTE, 65.

# CHURCH AND STATE IN NORTH CAROLINA, 1711-1776.

## CHAPTER I.

### INTRODUCTION.

In a former paper<sup>1</sup> the present writer pursued studies along two lines. First, he sought to show from external and internal evidence, from contemporary and later authorities, that the first settlements in North Carolina were made not by Quakers fleeing from religious intolerance in other colonies, but by men seeking for homes under better economic conditions. In the course of a few years, especially after the failure of Bacon's rebellion, these first settlers were reinforced by others seeking political freedom, which they found flourishing finely in the little colony by the Albemarle. Before the end of the seventeenth century settlers were coming into the colony, possibly from religious motives, for Quakers were then coming from Ireland as well as from Pennsylvania, and Huguenots were making their settlement about Bath.

The second part of the paper was an effort to arrive at the true relations between *Church and State* as developed in theory and practice by the Lords Proprietors. We saw that provision was made for a State Church in the charter granting Carolana to Sir Robert Heath in 1629. These provisions were re-enacted in the charters to the Lords Proprietors in 1663 and 1665. No effort was made, however, to put them into practice until 1701, when a vestry act was passed providing for an establishment. The fortunes

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<sup>1</sup> "The Religious Development in the Province of North Carolina," Johns Hopkins University *Studies in Historical and Political Science*, X., pp. 239-306, May-June, 1892.

and influence of this act were traced. The act passed late in 1704 or early in 1705 was examined and its relation to the "Cary Rebellion" considered. Dr. Hawks follows the example of the colonial leaders in disparaging the principles of Cary and his followers; with him they are rebels and indefensible. A more charitable view, that these men were struggling for political rights against the representatives of despotic power, has been recently advanced by Hon. William L. Saunders and Captain Samuel A. Ashe, and has been adopted by Hon. Kemp P. Battle; but the writer believes that the "rebellion" stands for more than a political struggle. It was the uprising of a free people against the attempt of foreign and domestic foes to saddle on them a church establishment with which they had no sympathy, and he has treated it as such. He does not believe it possible to explain the extent of the commotion on any other basis.

The purpose of this paper is to continue the line of study already begun; to trace further the relations between Church and State in North Carolina; to enquire if there was any persecution in North Carolina—if so, its character, when, where, by whom, and who were the sufferers; and to discover whether the colonial or home government was responsible for the persecution. The writer will show that from 1730 to 1773 the home and colonial governments enforced in North Carolina the atrocious Schism Act; that dissenting clergymen were denied for years the privilege of performing the marriage ceremony; that this was finally granted them only under burdensome restrictions; and that they were discriminated against in the enforcement of muster laws. He will also trace the evolution of that spirit of opposition to an Establishment which was to culminate in the Declaration of Rights and in the State Constitution of 1776, in the first amendment to the Federal Constitution in 1789, and in the final triumph of absolute religious freedom by the removal in 1835 of what seemed to be a ban placed on Roman Catholics by the State Constitution in 1776.

## CHAPTER II.

### CHURCH AND STATE UNDER THE PROPRIETORS, 1711-1728.

The acts passed by the Assembly of 1711 in its efforts to settle the religious and political questions growing out of the troubles with the Dissenters came very near plunging the country into a real civil war, as we have already seen.<sup>1</sup> But this new rebellion was nipped by the Virginia troops sent in by Gov. Spotswood, and the laws of which the colonists were here complaining remained in force.

There was, however, one bright spot in this dark cloud of usurpation and oppression. These acts put the Dissenters of North Carolina on a legal basis. The colonists had grown tired of the uncertainties and sufferings attendant on the arbitrary will of the Proprietors, and boldly proclaimed that "this province is annexed to and declared to be a member of the Crown of England." They enacted that the laws of England, "so far as they are compatible with our way of living and trade," were to be the laws of the province, and that "all such laws made for the Establishment of the Church and the laws made for granting indulgences to Protestant Dissenters" were to be a part of the law of the colony.<sup>2</sup>

This was a great step forward. Before this time there had been no legal recognition of Dissenters at all. Provision had been made in the charters for toleration, but how, when and under what circumstances it was to be exercised were matters to be left completely in the hands of the Lords Proprietors. How arbitrary and capricious this recognition might be we have already seen.

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<sup>1</sup> Religious Development in the Province of North Carolina, pp. 59-62.

<sup>2</sup> Col. Rec., I., 789, 790.



The Dissenters in North Carolina were now on the same footing as the Dissenters in England. Their position had been defined by the Toleration Act which had been passed on May 24, 1689. Its title is "An Act for Exempting their Majesty's Protestant Subjects dissenting from the Church of England from the Penalties of certaine Lawes."<sup>1</sup> Under this act Protestant Dissenters were allowed to attend their own places of worship, and were protected by the law from disturbance, provided they took the oath of allegiance and supremacy and subscribed the declaration against transubstantiation; but their congregations had to be duly registered and the doors of their meeting-houses had to remain unlocked and unbarred. Their ministers had to subscribe to the doctrinal portions of the Anglican articles, except that Baptists were relieved from the section in regard to infant baptism, and the Quakers had only to affirm their adhesion to the government, to abjure transubstantiation, to profess faith in the Trinity and in the inspiration of the Bible.<sup>2</sup>

This act is technically described as an "Act of Indulgence." It suspended in certain cases the operation of laws which still remained on the statute-book. It did not repeal these laws, and thus left the Dissenters more or less under the stigma of the law. They were still excluded from the universities; they could be married only by the Anglican ceremony, and the Corporation and Test acts prevented them from entering corporations and public offices without receiving the sacrament according to the Anglican rite. This act was the high-water mark of toleration in the seventeenth century. Its grants were considered as *favours*, not as

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<sup>1</sup> William and Mary, Chap. 18, in *Statutes of the Realm* (1819), VI., 74-76.

<sup>2</sup> Cf. the act for Liberty of Conscience in Col. Rec., II., 884, where it is provided that "all Protestant dissenters within this government shall have their meetings . . . provided that the same be public and subject to such rules, regulations and restrictions as by the several acts of Parliament . . . are made and provided." The Quaker was allowed to affirm.

*rights*; it conferred a great practical advantage on the Dissenters, but Lecky doubts if the cause of religious liberty received anything from the Revolution of 1688. William earnestly desired complete toleration, if not equality, among Protestants, but this policy was not feasible after the fear of a Catholic sovereign was removed. Measures to abolish the sacramental test or to make the reception of the sacrament in any Protestant form a sufficient test were introduced into Parliament and defeated.<sup>1</sup>

When the members of the Establishment in North Carolina drew nearer, in 1701 and 1704, to the model of the home government and undertook to force a development along these lines, the Dissenters tried the virtue of rebellion. It is clear that their government *de facto*, 1707-10, was recognized by the Proprietors,<sup>2</sup> but a new wave of loyalty suddenly swept them out of power in the latter year. From that time the Dissenters, in characteristic English fashion, submitted to the will of the majority, and began to fight their battles along legal and technical lines. During the next sixty-six years North Carolina was not without discussion and agitation on ecclesiastical matters, and this discussion, culminating in the Mecklenburg instructions of 1775 and 1776, and crystallizing in the Constitution adopted at Halifax in December, 1776, put North Carolina close to Virginia, the first political organization in the world to solve the problem of a free church in a free State, each independent of the other.<sup>3</sup>

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<sup>1</sup> Lecky, *History of England in the Eighteenth Century*, I., 219-221.

<sup>2</sup> If any are disposed to doubt this statement it is enough to invite them to read the Colonial Records carefully. The *Collections of the South Carolina Historical Society*, I., 181, inform us that the Proprietors appointed Emmanuel Lowe, *one of the rebel leaders*, secretary of the province on Nov. 30, 1710. He does not seem to have accepted, so Jan. 31, 1711, his son, Neville Lowe, was appointed to the same office (*Ibid.*, I., 160). (cf. also my paper on John Archdale and some of his Descendants, in *Magazine of American History* for Feb., 1893.

<sup>3</sup> Mr. William Wirt Henry (*Papers Amer. Hist. Association*, II., 23-30) claims this honor for Virginia. He bases this claim on the six-

The rebellion of Cary, moreover, had not been able to solve the question of tithes. We have the clearest testimony that the vestrymen found great difficulty in collecting church dues, and we know that the earlier church acts were repealed by the Proprietors; but in spite of these hindrances the Churchmen managed to keep some sort of an ecclesiastical law in existence. At no time within this period were the Dissenters quiet or regardless of their own interests; but from all the accounts we have of the religious inclinations of the colonists, a majority of them were of the Church of England. They had been reared within its communion; they were, therefore, naturally inclined toward it, and might be ready for that reason to connive at the efforts of their more zealous partizans. We are led to this conclusion from statements in the records. In 1704 Dr. Blair was promised £30 per annum "as the law provides";<sup>1</sup> the next year Gerrard was

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teenth section of the Bill of Rights adopted by the Virginia Convention, June 12, 1776. This section was the work of Patrick Henry. Dr. Charles J. Stillé replies in the next volume of the *Papers* (III., 205-211) that a Bill of Rights is not a law, and it was not until 1785 that Jefferson's bill establishing religious freedom was passed. There was still religious intolerance in Virginia in October, 1776, when Jefferson began his labors of reform, and this did not come to an end until 1799. Pennsylvania put the religious liberty clause into her constitution in 1776. Mr. Henry replies (*Ibid.*, III., 457 *et seq.*) that the Bill of Rights was a law and was so interpreted by the Virginia Court of Appeals. The trouble was that the Virginia legislature failed to recognize it. Madison seems to have represented the general opinion, *cf.* what he says in discussing the proposed Bill of Rights to the Federal Constitution (Elliot's Debates, III., 330, ed. 1836): "Is a Bill of Rights a security for religion? Would the Bill of Rights, in this State, exempt the people from paying for the support of one particular sect, if such sect were established by law?"

The thirty-second clause of the North Carolina Constitution: "That no person, who shall deny the being of God, or the truth of the Protestant religion . . . shall be capable of holding any office," etc., will be discussed in Chapter V.

<sup>1</sup> Col. Rec., I., 597.

promised the same sum "which the law directs";<sup>1</sup> and in 1708 Adams writes that each precinct by "act of Assembly" allows each minister £30.<sup>2</sup> The Proprietors had disallowed the law of 1701, and that of 1704 was evidently repealed; but in spite of all this the Churchmen managed to derive the same benefit from the law as if it had still continued in force. Urnstone tells us further that the Assembly had a way of reaffirming at the beginning of each session all acts of the preceding Assembly which they desired, and this obviated the trouble arising from any interference with their plans by the Lords Proprietors.<sup>3</sup>

The first one of the church acts to come down to us is the Vestry Act of 1715.<sup>4</sup> This was no doubt in some respects similar to the acts of 1701, 1704 and 1711, but how far they were alike we do not know. By it the right of Dissenters to exist is recognized; but the preamble beginning, "This province of North Carolina being a member of the Kingdom of Great Britain; and the Church of England being appointed by the charter from the crown to be the only Established Church to have public encouragement in it," etc., indicates clearly enough that the right to dissent was not yet recognized as natural and inalienable.

The act divided the province into nine parishes, and vestrymen were appointed in each. Provisions were made for them to meet and organize, and an oath was required wherein each declared that it was unlawful to take up arms against the king "upon any pretext whatever,"<sup>5</sup> and that he would

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<sup>1</sup> Col. Rec., I., 616. <sup>2</sup> *Ibid.*, I., 682. <sup>3</sup> *Ibid.*, II., 224.

<sup>4</sup> *Cf.* text in Col. Rec., II., 207 *et seq.*

<sup>5</sup> The Corporation Act (1661-1828) required all magistrates and municipal officers to take the sacrament according to the Church of England, to abjure the Covenant, and to take an oath declaring it illegal to bear arms against the King. In an act passed in North Carolina in 1715, public officers were required to take and subscribe "the several oaths" required in Great Britain under a penalty of £20 (Col. Rec., II., 885). The effort was evidently made to enforce in North Carolina the English laws in their severity, and this clause of the vestry act is a proof of it.

"not apugn the liturgy of the Church of England as is by law established." Every vestryman who refused to subscribe to this ironclad declaration of the divine right of kings was fined £3, "if such person is not a known and publick Dissenter from the Church of England." Each vestry was empowered to employ "a person of a sober life and conversation to be clerk," to employ a minister in each precinct for not less than £50, "and that in the raising thereof and all other parish charges, the whole do not exceed five shillings per poll on all taxable persons in the parish." The churchwardens and vestrymen were given power to purchase a glebe, build a church and one or more chapels in each precinct, and "to raise and levy money by the poll," under penalty of double distress in case of refusal or neglect of payment.

This was the last act relating to the establishment of the Church passed during the Proprietary régime.<sup>1</sup> It remained in force until 1741, when it was superseded by a new and fuller provision. We have no means of learning the amount of disturbance and confusion created by it; the records are silent on this point, for the Dissenters have few representatives in its pages. The Dissenters were the men of action, not of talk; but we can get side-lights now and then as to its effects. Quakers exhort each other faithfully to keep up their "testimony against the anti-Christian yoke of tithes," and the continual and bitter quarrels which Urmstone was always waging against his vestries, and the heartless abuse he pours out upon the colonists in general, indicate that the tithe law brought him very little gain. The vestrymen were empowered by law to distrain in case of refusal, but this seems to have been seldom resorted to. They no doubt fully appreciated the feeling which had raised such deep opposition to former church acts, and cared less for the howls and curses of the blasphemous missionary

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<sup>1</sup> In 1720 an Additional Act to the Vestry Act was passed, but has not come down to us. *Cf.* Swann's Revisal, 43, ed. 1752.



than for the hatred and contempt of their neighbors and kinsmen. Laws are hard to enforce in any country when the moral sentiment of the whole people does not sustain them, and Col. Byrd bears involuntary witness to the freedom and independence of North Carolina when he sneeringly remarks that these people pay tribute neither to God nor to Caesar. Why should the Proprietors expect willing tribute from a province which they valued only as a source of revenue? Why should Churchmen pay to the support of a ministry when they were given such men as Urmstone, and why should Dissenters pay to the support of any church save their own?

The Establishment and the Society for the Propagation of the Gospel had begun their work in North Carolina almost simultaneously; they had been of mutual assistance to each other; this assistance might have been many-fold greater had the character of the missionaries of the S. P. G. been better. Never, perhaps, did the average standard of devotion, purity and piety fall lower than it did in the case of these men. They were worse than the people whom they came to instruct. Their presence did harm to the cause of religion and morality. Some were weak men, others were positively vicious. A few biographies will be sufficient to establish the truth of these assertions.

The first of these missionaries was Daniel Brett, who turned out in six months to be a scoundrel.<sup>1</sup> Dr. Blair came next. He was pious, but faint-hearted, and in six months was gone.<sup>2</sup> Henry Gerrard was not sent out by the Society, but his career was in eminent keeping with that of the average missionary, for in a few months after his appointment the vestry record that they have heard of "several debauched practices which (if true) tends highly to the dishonor of Almighty God and the scandal of the church."<sup>3</sup> Rev. Giles Rainsford came out in 1712, and Rev. Ebenezer

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<sup>1</sup> Cf. *Religious Development*, 34, 35.

<sup>2</sup> *Ibid.*, 42, 43.

<sup>3</sup> Col. Rec., I., 630.

Taylor in 1717. These men were pious and upright in conduct, but weak and vacillating in disposition. They served the colony only a few years, and Newman, who came out in 1722, died within a few months. We must add to this list the names of Blacknall, a knave of superior rank, and Bailey, a drunkard,<sup>1</sup> who were the last to appear in the colony under the Proprietary régime.

These men seem bad enough, but they sink into insignificance when compared with John Urmstone, whose presence, Dr. Hawks very frankly and very justly remarks, "did more to retard the spread of Christianity and the growth of the Church of England in Carolina than any and all other causes combined."<sup>2</sup> This worthy was a native of Lancashire,<sup>3</sup> and was born in 1662.<sup>4</sup> He had received a liberal education, perhaps a university one; he had had the benefit of long travels, and knew something of French and Italian,<sup>5</sup> he is perhaps the same as the "Mr. Urmstone" who was chaplain to the English factory at Archangel in 1703, and who became a corresponding member of the S. P. C. K.<sup>6</sup> From the letters of Urmstone no one would ever charge him with having any of the spirit and meekness of Christ. He was unamiable and quarrelsome, he was haughty in disposition and ready to presume on the dignity of his sacred office. He had taken orders, no doubt, as too many of the clergy of that day had done, simply that he might live like a gentleman. He came to North Carolina not from a sense of duty to his divine Master, but with the hope and expectation of gain, for he complains in the most open and avowed manner that he and his predecessors had been laden with "calumnies, reproach and scandalous falsehoods instead of wealth."<sup>7</sup> He doubtless expected to

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<sup>1</sup> The vestry of Bath writes to the Society in very high terms of Bailey.

<sup>2</sup> *History of North Carolina*, II., 353.

<sup>3</sup> Col. Rec., II., 249. <sup>4</sup> *Ibid.*, II., 372. <sup>5</sup> *Ibid.*, II., 432.

<sup>6</sup> McClure, A Chapter in English Church History, Journal of S. P. C. K., pp. 262, 263. <sup>7</sup> Col. Rec., II., 126.

find well-ordered parishes, good churches, a people subservient to tithes and fat livings for missionaries, as he would have found in some of the West Indies; instead he found a scattered population living under the vampire-like dominion of the Proprietors, who cared more for quit-rents than for souls. Whatever progress had been made toward financial independence had been made in spite of bad governments and by honest toil; as a rule the people were poor; many of them were Dissenters, and the colony was just emerging from disturbances bordering on civil war due largely to the fixing of an Establishment. They paid scant respect then to the new clergyman from across the water, who soon showed that his own life was more immoral than the lives of the men whom he came to teach in religious things. The biting tongue of the missionary was unloosed in the first letter to the Society that has been preserved, and this may be taken as a fair sample of the voluminous correspondence that was to follow during the next ten dark and gloomy years from his heartless and unsympathetic pen. He is introduced to us with what was in that land of plenty a lie upon his lips: "Since my arrival here I... am at last together with my family in manifest danger of perishing for want of food, we have lived many a day only on a dry crust and a draught of salt water out of the sound."<sup>1</sup> And thus with almost every letter this suffering missionary was on the point of being laid in the tomb from sheer starvation;<sup>2</sup> yet he alone of all the missionaries who came to North Carolina was able to buy a plantation,<sup>3</sup> to bring white female servants with him from England, to buy English servants in Carolina, and buy negroes there;<sup>4</sup> to send to

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<sup>1</sup> Urmstone's first letter to the S. P. G. is dated July 7, 1711 (Col. Rec., I., 763). From this we gather that he had then been in the province about a year; but the vestry book of St. Paul's parish shows that he was an incumbent of that parish in 1708; cf. Perry, *Amer. Epis. Ch.*, I., 636.

<sup>2</sup> Col. Rec., I., 850; II., 77, 116, 130, 131, 176, 218, 248, 279.

<sup>3</sup> *Ibid.*, I., 764.

<sup>4</sup> *Ibid.*, II., 127.

Guinea for negroes;<sup>1</sup> to buy canoes for his work, and to hire overseers for his slaves.<sup>2</sup> We may rest assured that no other missionary was able to furnish his farm with stock, with tools and agricultural implements;<sup>3</sup> but all these things John Urmstone, the starving missionary, 'could afford. He not unfrequently closes his letters to the Society by an urgent request that his bills be allowed, which was not always done, and that they ship forthwith various and sundry articles of English goods, among them "Sugar the best sort—Molasses and Rum of each a barrel, the best pale or slack dried Malt, a hogshead, with hops together with spices, condiments and cider proportionable."<sup>4</sup> Then the pious and godly missionary goes on to inform the Society for the Propagation of the Gospel that "the three former are as precious here as gold of Arabia; with them I can buy provisions."

It would be tiresome to follow this scapegoat through the mazes of a voluminous correspondence extending over ten years, the burden of which is always complaint against the people, not so much for any lack of religion, but because of a manifest unwillingness to pay him his dues. Urmstone missed his calling; he constantly complains that he has no English goods with which to trade; had these been furnished him, had he come out to Carolina as a merchant instead of a missionary, from all appearances and from his own testimony he would have grown very wealthy, and in consequence, instead of abuse he would have written home most flattering accounts of the country on which he had been able to prey. Unfortunately for the colony, during the greater part of his residence Urmstone was the only clergyman of the English Church in it. He resided in Chowan, but seems to have visited all sections. He left North Carolina suddenly in March, 1721.<sup>5</sup> The cause of Christianity

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<sup>1</sup> Col. Rec., II., 260. <sup>2</sup> *Ibid.*, II., 126. <sup>3</sup> *Ibid.*, I., 764. <sup>4</sup> *Ibid.*, II., 128.

<sup>5</sup> Col. Rec., II., 430. Anderson, *History of Colonial Church*, finds him later in Philadelphia. In July, 1721, he was in London (Col. Rec., II., 431).

had been the gainer had he never set foot within her borders. He never had a good word for the province, nor its people, nor did they have respect for him. Gov. Hyde says that his troubles were owing purely "to himself and his unfortunate temper."<sup>1</sup> Rainsford said that "a lazy distemper had seized him."<sup>2</sup> Gov. Eden expresses the hope that nothing Urmstone might have to say in his own defense would make any impression, and some of his parishioners said that he was "a very unfit missionary...his life is so wicked and scandalous, notorious drunkard and swearing and lewdness is also what he is occupied of."<sup>3</sup> Urmstone confesses himself that he administered the sacrament but twice in five years, and the court records show that he was punished for drunkenness and profanity.<sup>4</sup> The wickedness of his life is only equaled by the malignity of his hate and the acrimonious bitterness of his speech toward those whom he dislikes, and his total unfitness for his sacred office, his utter want of Christian charity, is shown when he calls the colony "a hell of a hole," and declares that he had rather be "Vicar to the Bear Garden than Bishop of North Carolina."<sup>5</sup>

After such a repulsive and sickening picture as this, it is a relief and a pleasure to say that there were some men among these missionaries who would do honor to Christianity in any age or country. These men were James Adams and William Gordon. They were sent out by the S. P. G., and arrived in North Carolina in April, 1708,<sup>6</sup> after the colony had been without a minister of the Establishment for two years. Mr. Gordon took charge of the precincts of Chowan and Perquimans.<sup>7</sup> In Chowan the church sadly needed repairs. The people were ignorant, "there being few that can read and fewer write"; but to the minister they

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<sup>1</sup> Col. Rec., I., 849.    <sup>2</sup> *Ibid.*, I., 858.    <sup>3</sup> *Ibid.*, II., 430, 431.

<sup>4</sup> Hawks, II., 127; Col. Rec., II., 401.

<sup>5</sup> Col. Rec., II., 374.

<sup>6</sup> *Ibid.*, I., 677.

<sup>7</sup> *Ibid.*, I., 680, 712.



seemed well inclined both in public and in private, "many of them being ready to embrace (as far as they could) all opportunities of being instructed." This precinct was very large, but the missionary went into every part of it, baptizing nearly a hundred children, distributed some tracts and "gave some books for the use of scholars." In Perquimans he found a compact little church, "built with more care and expense, and better contrived than that in Chowan," but as yet unfinished. Here the Quakers were numerous and their attacks furious. He found it necessary to preach against them, but was as moderate as was possible in his expressions and free from harsh reflections. He was also able to show them some favors through his knowledge of medicine. These means were more successful than the "rougher methods which it seems had been formerly used with them"; for they "not only became very civil, but respectful to me in their way," and many times entertained him at their houses with "much freedom and kindness." The Quakers, no doubt, had been strangers to such things as politeness or kindness from the churchmen, and were won by it at once. In Perquimans Gordon found that even the vestry were "very ignorant, loose in their lives and unconcerned as to religion...their ill example and the want of ministers and good books have occasioned many who were better disposed, through ignorance, to join with the Quakers; being willing to embrace anything that looks like religion, rather than have none at all...some having told me they owned their first departing from the church to the ill example and imprudent behavior of their ministers."<sup>1</sup>

On account of the disturbed state of the province, due to the "Cary rebellion," Gordon found it expedient to return to England after four months.<sup>2</sup> He bore with him the testimony that he had been "universally approved"; that his "sweetness of disposition and spotless conversation" and his "practical way of preaching" had "prevailed even

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<sup>1</sup> Col. Rec., I., 712 *et seq.*

<sup>2</sup> *Ibid.*, I., 685.

with the very enemies of the church [Quakers] to be silent at his deserved applause."<sup>1</sup>

Adams was now alone, but he did not become discouraged. He settled in Pasquotank, which then included Camden, and besides this took care of Currituck.<sup>2</sup> There was no church in Pasquotank, but after his coming the people at once resolved "to build a church and two chapels of ease."<sup>3</sup> He labored faithfully for two years, although suffering "a world of misery and trouble, both in body and mind."<sup>4</sup> He was exemplary in life and blameless in conversation,<sup>5</sup> and thus kept the Dissenters, who were now in the ascendant in civil matters, from making capital out of his shortcomings, as had been done in the case of previous ministers. His work was blessed of God; he had the pleasure of celebrating the sacrament on several occasions, and administered baptism to nearly three hundred persons. His flock was steadily increasing, but they had not given him enough since his coming to pay for his "diet and lodging."<sup>6</sup> This treatment was disheartening and undeserved, but he labored on for a while longer. At last he realized that he must seek a lighter field of labor, where the Church was better organized and where the difficulties did not seem so insurmountable as in North Carolina. The vestries of the churches in Pasquotank and Chowan bore witness that he had been a faithful man and had "behaved himself in all respects as a messenger of the mild Jesus," and seem to have been deeply moved at his departure. His last letter comes to us dated "Va., 4 Sept., 1710." He now prays the honorable Society to change his mission to South Carolina, "where I doubt not but, by God's assistance, I shall be able to do more good";<sup>8</sup> but the work of the self-sacrificing and suffering missionary was ended, and the Master soon called him to his eternal home.

<sup>1</sup> Col. Rec., I., 685.

<sup>2</sup> *Ibid.*, I., 681.

<sup>3</sup> *Ibid.*, I., 681.

<sup>4</sup> *Ibid.*, I., 734.

<sup>5</sup> *Ibid.*, I., 729, 730.

<sup>6</sup> *Ibid.*, I., 721.

<sup>7</sup> *Ibid.*, I., 729.

<sup>8</sup> *Ibid.*, I., 733, 734.

Adams was the most respectable and the most successful missionary sent to North Carolina by the S. P. G., but he arrived in troublesome times. Party contests were at their highest, the Dissenters were in possession of the government, and although a church law was in existence,<sup>1</sup> the churchmen could collect little under its provisions. Their private contributions were not large, and the result was that the missionary received but little for his labors. The churchmen were "a numerous and considerable body of people," but all the evidence of the records goes to show that at this period in the struggle there was little religion among them.

The wickedness and carelessness of the people was induced in part, no doubt, by the badness of the missionaries. It is due to the manhood and character of the early settlers of the State that so much good has since come from such evil examples. Had the S. P. G. sent to North Carolina more men like Gordon and Adams, men with strong moral character, sound common sense, strong will power, and not entirely selfish, the results of their labors might have been far different; as it was, the chief fruit was civil dissensions and bloodshed, culminating in foisting on the colony an Establishment which was to be a constant source of annoyance and which is directly responsible for a large share of the backwardness of the State in education and intellectual pursuits. These missionaries did not have that enthusiasm for humanity which characterized the work of the apostles of Methodism. It was necessary for them to give up all, including almost even the necessities of life, for the sake of the cause. This they could not do. They still looked and hoped for good quarters and abundant supplies, and to obtain these relied on State aid. This aid made them less self-respecting and less self-reliant; at the same time it failed to accomplish the purpose for which it had been provided, and succeeded only in irritating the Dissenters.

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<sup>1</sup> Col. Rec., I., 682.

### CHAPTER III.

#### CHURCH AND STATE UNDER THE ROYAL GOVERNMENT, 1728-1776.

In 1730 George Burrington became the first royal governor of North Carolina. His instructions in regard to the Church are voluminous and indicate a purpose to provide for an Establishment. North Carolina, along with the other American provinces, had already been put under the ecclesiastical control of the Bishop of London. Burrington had the right of collation,<sup>1</sup> and was instructed to "permit a liberty of conscience to all persons (except papists) so as they be contented with a quiet and peaceable enjoyment of the same, not giving offence or scandal to the government." He was directed to see that the "book of common prayer as by law established" be read each Sunday and holiday, and "the blessed sacrament administered according to the rites of the Church of England." He was to see to it that "a competent maintenance be assigned to the minister of each orthodox church"; that "a convenient house be built at the common charge for each minister," and that there be "a competent proportion of land assigned him for a glebe and exercise of his industry." The governor was not to prefer any minister to any benefice without a certificate from the Bishop of London "of his being conformable to the doctrine and discipline of the Church of England and of good life and conversation." No minister was to preach or to administer the sacrament in any "orthodox church" "without being in due orders."

The requirement imposed by the eighty-second section of these instructions is fearful in its deliberate atrocity: "And we do further direct that no schoolmaster be henceforth per-

<sup>1</sup> Col. Rec., III., 70.

mitted to come from this kingdom and to keep school in that our said province without the license of the Lord Bishop of London, and that no other person now there or that shall come from other parts shall be admitted to keep school in North Carolina without your license first obtained."<sup>1</sup>

This clause of Burrington's instructions reproduced the essential features of the English Schism Act. This act had been passed in 1714 to supplement the Occasional Conformity Bill which was intended to exclude Dissenters from all positions of power, dignity or profit. The Schism Act was to crush their seminaries and deprive them of the means of educating their children. Lecky<sup>2</sup> characterizes it as one of the most tyrannical measures of the century. It provided that no one, under pain of three months' imprisonment, should keep either a public or a private school, or should even act as tutor or usher, unless he had obtained a license from the Bishop, had engaged to conform to the Anglican liturgy, and had received the sacrament in some Anglican church within the year. To prevent occasional conformity it was provided that a teacher so qualified who attended any other form of worship was to suffer the full term of imprisonment and to be forever incapacitated from acting as tutor or schoolmaster. The facility with which this act was passed shows the danger religious liberty was in during the closing years of Queen Anne. This act and the Occasional Conformity Bill were repealed in January, 1718.

This repeal only makes its re-enactment for the colony the more exasperating. School-teachers were few enough in North Carolina during the whole period of its colonial existence. Of those who did appear, some, no doubt, were Dissenters; but with fiendish atrocity the English government closes to them the avenue to greatest usefulness.

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<sup>1</sup> Instructions to Burrington, §§ 74-84, Col. Rec., III., 110, 111.

<sup>2</sup> *History of England in Eighteenth Century*, I., 103-5.



This is the greeting which the royal government sends out to the daughter rejoicing in her recent escape from the rule of the Proprietors. This was the precious heritage with which the first royal governor comes out to meet the subjects who had twenty years before boldly thrown off the rule of the Proprietors and claimed the King's protection. It seemed that the new government was to be worse than the old, for the royal government now took the lead in ecclesiastical legislation and had, unfortunately, a large following in the colony.

Burrington, when he asked the provincial Assembly to make such laws as were necessary for him to carry out the royal instructions in relation to the Establishment of the Church,<sup>1</sup> does not include the Schism Act in his list; nor does he mention it in the résumé of his work in his letter to the Duke of Newcastle, July, 1731.<sup>2</sup> This absence of all mention might indicate one of two things: either that he did not dare to undertake to enforce the Schism Act, and therefore completely ignored this part of his instructions, or (2) that there was no occasion to enforce it because of the non-appearance of Dissenting schoolmasters. But there was certainly no reason for him to bring the matter before the Assembly; no provincial law was necessary; the execution was in his own hands. The records are silent in regard to any attempts to enforce its provisions, but we have no reason for expecting such reference. That there were few schoolmasters of any kind we know well enough, and that the most of these were the missionaries of the S. P. G., and would, therefore, have the license, we know from Brickell.<sup>3</sup>

If we judge from the experience of the New Bern Academy in 1766, of the Edenton Academy in 1768, and of Queen's Museum in 1773, the Schism Act was enforced in 1731, provided a case came up. If it was not enforced it

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<sup>1</sup> Col. Rec., III., 257, 286.

<sup>2</sup> *Ibid.*, 142.

<sup>3</sup> *Natural History of North Carolina*, 35, quoted in Smith's *History of Education in North Carolina*, 16.

was because Burrington knew the temper of the people too well. It is just about this time he writes that "they are neither to be cajoled or outwitted, whenever a governor attempts to effect anything by these means he will lose his labor and show his ignorance." "The inhabitants of North Carolina," he says, "are not industrious, but subtle and crafty to admiration." They always behaved insolently to their governors; "some they have imprisoned, drove others out of the country, at other times set up two or three supported by men under arms. All the governors that ever were in this province lived in fear of the people (except myself) and dreaded their assemblies."<sup>1</sup> We can read clearly enough in this glowing tribute to the North Carolina democracy that spirit of fear which Burrington denies. And this wholesome fear no doubt went far in mitigating the harshness of the original instructions.

Burrington found the Assembly little inclined to pass the laws necessary for him to carry out the instructions in regard to Church affairs. When he asked that this be done, the Assembly replied that it had been provided for by an earlier vestry act.<sup>2</sup> He obtained nothing of the Assembly of 1731, and wrote home that he could not "observe much sense of religion among them."<sup>3</sup> His request was renewed

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<sup>1</sup> Col. Rec., III., 338.

<sup>2</sup> Col. Rec., III., 295. Reference was had here to an act passed in November, 1729, for regulating vestries and for the better inspecting the vestrymen and churchwardens' accounts. The text has not been preserved, but it seems to have been intended as a supplement to the act of 1715. A similar request to the Assembly of 1733 elicited the reply that they thought the act of 1729, which was then under the consideration of the King, looked to the establishing of vestries, building of churches, purchasing of glebes and providing for the clergy. (III., 552, 571.) Burrington replies to this that if he understood the intended law of 1729, the "true meaning of it is that none of those good things should be effected" (600). There was considerable discussion as to the validity of this law, as it was passed just at the time of transition from Proprietors to King. (175, 176.)

<sup>3</sup> Col. Rec., III., 152, 339.

of the Assembly<sup>1</sup> of 1733, but this was equally disinclined to follow in the path marked out by the English government, and returned Burrington the same indefinite answer.

We do not know that any further effort was made by Burrington toward an Establishment. His poor success would indicate that the Dissenting element was large and powerful enough in the Assembly to prevent the enactment of extensive Church acts. The Church received certain fines,<sup>2</sup> and there was a poll tax of five shillings, but as this could be paid in "bill money," little more than enough was collected to pay the readers who officiated on Sunday<sup>3</sup> and the occasional clergyman who came out from Virginia to preach before the Assembly.<sup>4</sup> The Established Church had sunk very low; there was no regular clergyman in the province,<sup>5</sup> and those who had been there gave offense by their vicious lives.<sup>6</sup> We must conclude that from the standpoint of the Establishment the state of the colony was deplorable: no "orthodox clergy," no certain support from the colony, this still more uncertain in the collecting, and a numerous and aggressive body of Presbyterians, Anabaptists, and Quakers,<sup>7</sup> who all knew how to make the best of their opportunity.

Gabriel Johnston became governor of North Carolina in 1734, and the instructions sent to Burrington, including the church acts and the Schism Act, were renewed for his successor.<sup>8</sup>

Gov. Johnston was zealous for the Church. He takes care to remind the Assembly that the instructions for Establishing the clergy were already on their books.<sup>9</sup> He writes feelingly and eloquently in regard to "the deplorable and almost total want of divine worship throughout the province."<sup>10</sup> He had it "much at heart to obtain a legal Establishment of a competent maintenance,"<sup>11</sup> and we find that

<sup>1</sup> Col. Rec., III., 541, 564.    <sup>2</sup> *Ibid.*, III., 159.    <sup>3</sup> *Ibid.*, III., 152.

<sup>4</sup> *Ibid.*, 298, 584.    <sup>5</sup> *Ibid.*, III., 152, 394, 429.    <sup>6</sup> *Ibid.*, III., 429.

<sup>7</sup> *Ibid.*, III., 48, 394, 429.    <sup>8</sup> *Ibid.*, III., 498.    <sup>9</sup> *Ibid.*, IV., 122.

<sup>10</sup> *Ibid.*, IV., 227.    <sup>11</sup> *Ibid.*, IV., 264.

the Assembly courteously laments "the want of Publick Divine worship," but does nothing. The governor, bursting with anger because of its indifference, dissolves it (March, 1737).<sup>1</sup>

His zeal even leads him to gloze and hide the true state of affairs to help the Establishment. In his address to the Assembly in 1739 he says: "The establishment of the public worship of Almighty God, as it is the great foundation of the happiness of society, and without which you cannot expect His protection, deserves your earliest care. That in such a wide extended province as this is, inhabited by British subjects, by persons professing themselves Christians, there should be but two places where divine service is regularly performed is really scandalous. It is a reproach peculiar to this part of His Majesty's dominions which you ought to remove without loss of time."<sup>2</sup>

In this address Gov. Johnston ignores entirely the Dissenters and their work. These were neither insignificant in numbers nor in the character of the work done. Burrington wrote in 1732 and 1733 that the Quakers had four meeting-houses and were "considerable for their numbers and substance; the regularity of their lives, hospitality to strangers, and kind offices to new settlers inducing many to be of their persuasion."<sup>3</sup> Presbyterians were now beginning their migrations to the province, and we know that they established churches almost from the first.<sup>4</sup> Baptists had been in the colony as early as 1695. They were then, as now, energetic and aggressive, and a competent authority has recently said

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<sup>1</sup> Col. Rec., IV., 244.

<sup>2</sup> *Ibid.*, IV., 357.

<sup>3</sup> *Ibid.*, III., 339, 430.

<sup>4</sup> Dr. Blair tells us as early as 1704 that he found a sect "something like Presbyterians" (Col. Rec., I., 602), and Adams (1709) found a few in Pasquotank "who now constantly join with us in our service" (*Ibid.*, I., 720). Other missionaries mention them also. These were English and were no doubt few in numbers. The migration of the Scotch and Scotch-Irish Presbyterians began about 1730.

that "from 1727 to 1755 the Baptists of North Carolina were the most prosperous body of Baptist Christians in the world."<sup>1</sup>

The object of the Governor was accomplished, however; the Council and the House of Burgesses make haste to answer his Excellency that they thought "the establishment of the worship of Almighty God in this province merits our chiefest care. We shall therefore apply ourselves to consider the most proper methods, to make farther provision for the maintaining of an orthodox clergy among us."<sup>2</sup> In 1741 an act for "Establishing the Church, for appointing Parishes, and the method of electing Vestries, and for directing the Settlement of Parish Accounts," was passed. Under its provisions the province was divided into sixteen parishes. The inhabitants of each were to choose their own vestry, who were to subscribe to a declaration not to oppose the liturgy of the Church of England as by law established, under penalty of £3, unless a known Dissenter. The vestry could raise money not exceeding five shillings proclamation,

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<sup>1</sup> Dr. William H. Whitsitt, of Louisville, Ky., in his address at Wake Forest College, June, 1888. Knight, *History of General Baptists*, says there were individual Baptists in North Carolina as early as 1690. Morgan Edwards puts the date 1695, and this has been adopted by Benedict and Sprague. We find no mention of them in the records until 1714, when John Urmstone said that there were two Anabaptists among his vestrymen (Col. Rec., II., 131, 304). It is usually said that the first Baptist church was organized in Perquimans county in 1727 by Paul Palmer, a native of Maryland, who was in North Carolina as early as 1720, when he was indicted for theft and abnction, but acquitted (*Ibid.*, II., 406, 409, 410, 411, 415, 471). In 1729 his church had thirty-two members, consisting chiefly of those who had been members of a Baptist church at Burleigh in Virginia (Sprague, *Annals*, VI., xiii). But Dr. Whitsitt reverses this and suggests that Palmer was attracted to North Carolina because there were a good many Baptists there already, and that the Baptists of lower Virginia were derived from those of North Carolina, for the latter, 1727-1755, were prosperous, aggressive and flourishing, the former few and weak.

<sup>2</sup> Col. Rec., IV., 358.



per poll, under penalty of distress and sale of goods; they had power to build churches, purchase land for glebes, erect suitable buildings thereon and keep them in repair. They were to employ a minister "qualified according to the ecclesiastical laws of England," at not less than £50 a year, and had power to dismiss him for cause. All former ecclesiastical acts were repealed.<sup>1</sup>

There seems to have been considerable activity about this time in ecclesiastical legislation. A bill for an "Act for Liberty of Conscience" was presented to the Legislature of 1740,<sup>2</sup> but failed in passage, as it does not appear in Swann's Revisal. Whether it was a virtual re-enactment of the Liberty of Conscience Act of 1715 we do not know, but its defeat seems to have had a purpose, as we shall see in the case of Borden, the Quaker.

As the regular poll of five shillings was not enough for erecting houses of worship, the commissioners of certain towns were allowed by private acts to lay a special tax for the use of that parish in completing churches already begun. This was done in New Bern, Edenton, and Wilmington. For the New Bern church the tax was 1s. 6d. on the tithable for two years, and persons not paying were to forfeit 4s., besides costs. Sums subscribed were considered promissory notes, and in 1751 the sheriffs of Johnston and Craven were given power to levy by warrant on those who had not paid this tax.<sup>3</sup>

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<sup>1</sup> Swann, *Revisal of the Laws*, 156 *et seq.*, ed. 1752. It will be noticed that this act is, with transpositions and verbal alterations, the same as the act of 1715 except that the iron-clad recognition of the divine right of kings is no longer inserted, indicating growth along democratic lines, and that the minister is subject to the vestry. The case of the poor was also put into the hands of the vestry, and funds for their support came from the general levy for church purposes. For the civil functions of the parish in colonial North Carolina, *cf.* Howard, *Local Constitutional History of the United States*, I., 129-134.

<sup>2</sup> Col. Rec., IV., 514.

<sup>3</sup> Swann's *Revisal*, 108, 111, 346, 348, ed. 1752; Davis's *Revisal*, II., 121, 133, ed. 1765. As was a usual thing in those days, we find that

The act of 1741 was the only general church act passed during Johnston's administration. It levied only a poll tax, the most unjust and burdensome of all taxes, but from the efforts to secure another law we may feel sure that it gave little satisfaction even to the Churchmen. Their attempts were renewed with the Assembly which met in September, 1741, but Moir says he soon discovered that "nothing was to be done for a proper encouragement of an established ministry."<sup>1</sup> Garzia says they would pay him only £37 10s., the least allowed by "a new law."<sup>2</sup> Moir who is only outgrowled by Urmstone, says that his salary is very ill paid and that "the essential branch of the constitution of this province is to do as little justice as possible to creditors."<sup>3</sup> Besides, he was paid in rated commodities of which he could not dispose. In 1746 the secretary of the S. P. G. writes Gov. Johnston in regard to the encouragement that can be given if more missionaries are sent out;<sup>4</sup> but Moir saw no hope.<sup>5</sup> He says many had turned Baptists for want of clergymen, while others were "much inclined to encourage missionaries, and often complain of their being pestered with sermons of Baptist teachers, whom I always found to be as grossly ignorant as those they pretend to teach."<sup>6</sup>

Johnston exerted himself steadily in the interests of the Establishment. In his address to the Assembly in 1749 he points out the "want of a sufficient provision for maintaining the public service," and urges that this be remedied. A bill for establishing the Church, erecting schools, etc., was introduced in 1752,<sup>7</sup> but failed. It may be that the school clause was attached as a rider to secure the votes of Dissenters, but if so, the scheme did not work.

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the churches at Wilmington and Brunswick were finally finished by the aid of a lottery. (Col. Rec., VI., 507, 508, 511; *cf.* also Davis, *Revisal of 1765*, II., 213.)

<sup>1</sup> Col. Rec., IV., 603.

<sup>2</sup> *Ibid.*, 604, 606.

<sup>3</sup> *Ibid.*, IV., 754.

<sup>4</sup> *Ibid.*, IV., 794.

<sup>5</sup> *Ibid.*, IV., 791.

<sup>6</sup> *Ibid.*, IV., 878.

<sup>7</sup> *Ibid.*, IV., 1009, 1027.

<sup>8</sup> *Ibid.*, IV., 1321, 1322, 1337, etc.

The death of Johnston in 1752 had no effect on the establishment of the Church. He was succeeded by Arthur Dobbs. The instructions of Dobbs were sent over in 1754.<sup>1</sup> It is interesting to compare the steady and stubborn opposition to an Establishment as manifested by the Dissenters, with the thoughts and desires of the authorities at home. In 1730 they had instructed Burrington to enforce the infamous Schism Act, a leading cause for the backward state of the province in education. In 1733 these instructions were renewed to Johnston. After twenty years of conflict with the colonists the home authorities are no wiser than before, and in 1754 renew their old instructions, including the Schism Act. It is evident that the home government was doing all in its power to restrict the growth, development and liberty of the colony; but if they expected the Dissenters there to be behind those in England they found themselves mistaken.

Dobbs began work for the Establishment at once. In his message to the Assembly of 1754 he recommends the providing a proper fund to support a sufficient number of learned, pious clergymen, who were to reside in the province. They were to be accommodated with houses, glebes and parish clerks, "to enable them to instruct the inhabitants and the rising generation in the principles of true religion and virtue."<sup>2</sup> An act to this effect was passed by this Assembly, but was repealed by proclamation,<sup>3</sup> although Dobbs writes that he thought it for the interest of both king and colonists "to get so good an establishment immediately fixed, considering the number of sectaries who are against all establishments, and the danger of their increasing if we don't fix a parochial clergy."<sup>4</sup>

This was but the beginning of a triangular fight between Dissenters, democratic Churchmen, and supporters of the rights of the Crown. The ecclesiastical history of the next ten years is of interest chiefly because of the stubborn

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<sup>1</sup> Col. Rec., V., 1136, 1137.

<sup>2</sup> *Ibid.*, V., 213, 216.

<sup>3</sup> Davis's Revisal, II., 34, ed. 1765.

<sup>4</sup> Col. Rec., V., 332.

resistance to the enforcement of church laws by the Dissenters, the stubborn determination of the Churchmen to have an establishment with the right of presentation and the steady opposition of the Crown to both parties. In 1755 a proposition to purchase glebes met with failure.<sup>1</sup> The next year a recommendation for the support of clergy had the same fate.<sup>2</sup> In 1758 an act making better provision for the clergy was passed. It was repealed and included in the more comprehensive law of 1762.<sup>3</sup> An act making provision for an orthodox clergy was passed in 1760 and repealed.<sup>4</sup> The same year a vestry act was made, proved unsatisfactory, and was repealed; an act allowing separate parishes to elect vestries was passed, but it depended on the general vestry act, and so fell through.<sup>5</sup> The same was the case in 1761.<sup>6</sup> We must conclude that whatever legal allowance there may have been remained practically useless for lack of officers to collect it.<sup>7</sup>

<sup>1</sup> Col. Rec., V., 527.

<sup>2</sup> *Ibid.*, V., 660, 662.

<sup>3</sup> Davis's Revisal, II., 142, ed. 1765.

<sup>4</sup> *Ibid.*, 182.

<sup>5</sup> Davis's Revisal, II., 211, ed. 1765.

<sup>6</sup> *Ibid.*, II., 224.

<sup>7</sup> Col. Rec., VI., 57, 234, 977; Davis's Revisal, 182, ed. 1765. It is worthy of remark that the salaries given these missionaries were doubtless superior to what the same class of men received in England. In 1754 the salary was £50, proclamation, equal to £30 sterling. In 1756 it was fixed at £80. In 1762 it reached the high-water mark, £133 6s. 8d., worth £75 to £82 sterling. It remained at this figure, which in 1767 was worth £60 to £65 sterling. (Col. Rec., VII., 493; cf. note to *The Religious Development in the Province of North Carolina*, 38. Adam Smith says that in 1776, £40 was reckoned very good pay for a curate.) But it is probable that they did not receive all collected for them under the law, for it was sometimes found necessary to appropriate the funds that had been set aside for school and church purposes to pay the costs of the French and Indian war. (Cf. Col. Rec., V., 573; VI., 150, 153. Cf. also Smith's *History of Education in North Carolina*, 40.) McConnell, *History of American Episcopal Church*, says that while the colonial legislatures could not disestablish the Church, they could and did pass such laws as made it more than useless. But as the Legislature of North Carolina, prior to 1701, had, by ignoring, prevented an Establishment, we may conclude that they might have continued the same policy to 1776 had they desired.

In 1762 it was found that there was not sufficient maintenance for the clergy, and a new bill was passed. Under this law the minister was to receive a salary of £133 6s. 8d., proclamation money. He was to have in addition regular fees for marrying, publishing banns, and granting certificates, and for funeral sermons; he could demand and receive these perquisites, if he had not neglected or refused to perform the service, although another had actually officiated. The law made provisions for a glebe, and suitable houses were to be erected thereon; the sole right of presentation remained in the vestry, and a minister might be removed for cause by the Governor, with the advice of the Council.<sup>1</sup>

This act seems to have been repealed at once by proclamation; for missionary Reed writes in June, 1763, that "the clergy are still destitute of any legal provision or encouragement";<sup>2</sup> and Governor Tryon recommends in 1765 the re-enactment of the law of 1762, without the objectionable clause relating to presentation, which was done.<sup>3</sup>

The central cause for all this trouble was the right of presentation to livings. The authorities in England were zealous for the supremacy of the Church and the Crown, and wished to retain it, while the democratic temper of the colonial Churchmen made them equally determined to secure it for the vestry, and caused them to clog their bills "with objections incompatible with the rights of the Crown and the ecclesiastical jurisdiction."<sup>4</sup> They excluded the Bishop from examining and correcting abuses, and the right of appeal was taken from the Crown. "After all these provisions," writes the Bishop of London in regard to the Act of 1754, "what becomes of the king's supremacy or the bishop's jurisdiction?"<sup>5</sup> He thought this model of government might have come from the Presbyterians and Independents of New England. He was astonished to see

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<sup>1</sup> Davis's Revisal, II., 279, ed. 1765.    <sup>2</sup> Col. Rec., VI., 990, 999.

<sup>3</sup> Davis's Revisal, 338, ed. 1773.

<sup>4</sup> Col. Rec., VI., 10, 81, 223; VII., 103.    <sup>5</sup> *Ibid.*, VI., 10.



such a statute in the laws of North Carolina, "where conformity is so strongly insisted on" that each vestryman is compelled to subscribe to the same declaration as is required of clergymen in England.<sup>1</sup>

So keen was this jealousy on the part of the home government that the Rev. Alexander Stewart, missionary at Bath, writes in 1760 that within the last six years four acts for electing vestries and supporting the clergy had been passed only to be repealed by the authorities at home because unsatisfactory. To prevent the Church law that was enacted in 1760 from being repealed by proclamation, it was necessary to divide the clauses relating to vestry and clergy, and to pass them separately.<sup>2</sup> These were then referred to the Bishop of London. It was not enough for him that the vestrymen should take the oath of abjuration and subscribe the Test Act. The declaration required, a simple promise not to oppose the Church of England as by law established, he correctly claimed, might have been taken with equal propriety by Presbyterian, Anabaptist, Independent, Quaker, Jew, or pagan. The bishop demanded that the vestry be required to subscribe to the declaration of conformity laid down by the vestry act of 1755.<sup>3</sup> He objected that there was no means provided for the minister to recover dues in case of refusal of payment, and the section in regard to the removal of the minister, he said, tended to take away "the little remains of ecclesiastical jurisdiction, if any is left in that province." The law was repealed.<sup>4</sup>

These squabbles had a very baleful influence on the fortunes of the Establishment. It was difficult to get a church

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<sup>1</sup> Col. Rec., VI., 12; cf also IX., 83, where the same language is used with reference to a law then before the Bishop for examination. This law also took the presentation from the Crown and put the government into the hands of the vestry.

<sup>2</sup> Col. Rec., VI., 242.

<sup>3</sup> This act was passed at the Dec.-Jan. meeting, 1754-55.

<sup>4</sup> Col. Rec., VI., 714, 721, 722, 723; VII., 224.

law at all, and when such as could be secured were repealed by proclamation, the colonial clergy were left without resources. In 1758 they felt it necessary to petition the Legislature for better support.<sup>1</sup> In 1762 Dobbs writes that their number is diminishing;<sup>2</sup> in 1764 there were but six orthodox clergymen in the province, "four of which are pious";<sup>3</sup> and to this lack of "an orthodox and pious clergy" the Assembly of 1758 ascribes much of the great immorality and profanity in the lives and manners of many of the people.<sup>4</sup>

Not only was the jealousy of the home government to be met by the Churchmen, but also the aggressive attacks of the Dissenters who wanted no establishment at all. Between these two antagonists the way of the colonial Churchman was hard, and the life of an ecclesiastical law hung by a slender thread. Further, the Establishment became relatively weaker as population increased, for nearly all of this incoming population was made up of Dissenters.<sup>5</sup> In 1760 we have a summary of dissent from the Rev. James Reed: "Great number of Dissenters of all denominations came and settled amongst us from New England particularly, Anabaptists, Methodists, Quakers, and Presbyterians; the Anabaptists are obstinate, illiterate, and grossly ignorant; the Methodists ignorant, censorious and uncharitable; the Quakers rigid; but the Presbyterians are pretty moderate, except here and there a bigot or rigid Calvinist. As for Papists, I cannot learn there are above nine or ten in the whole county. I have estimated the number of infidels and heathens to be about one thousand."<sup>6</sup>

In the next year we find him complaining that the special study and endeavor of these Dissenters was to render

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<sup>1</sup> Col. Rec., V., 1062, 1063, 1067.

<sup>2</sup> *Ibid.*, VI., 709.

<sup>3</sup> *Ibid.*, VI., 1027.

<sup>4</sup> *Ibid.*, V., 1095.

<sup>5</sup> Moir thought that this "inundation of sectaries" was due largely to the lack of proper vestry acts, since the generality of the inhabitants were "much inclined to the offices of our church." (Col. Rec., VI., 995.)

<sup>6</sup> Col. Rec., VI., 265.

the ministers and liturgy of the Church of England as odious as possible, that they and their doctrines might meet with a better reception.<sup>1</sup> This seems to have been the case, for they took advantage of the technicalities of the acts to become vestrymen, and thus succeeded in making the laws null and void. They combined to elect only such vestries as would be favorable to their interests.<sup>2</sup> These vestrymen performed their civil duties and calmly ignored their ecclesiastical functions, and this they could do under their oath. In Rowan county they refused to qualify, and obstructed business.<sup>3</sup> Dobbs could not get a vestry to lay a tax for building purposes;<sup>4</sup> others threatened to dock the minister if he ever absented himself,<sup>5</sup> and the steady purpose of all vestries was to make the minister dependent on themselves.<sup>6</sup> They so hindered in various ways the raising of money that Dobbs thought it necessary to propose that clergymen be paid out of the common funds of the colony.<sup>7</sup>

This is probably the best way to explain and apologize for the vestry act of 1764, the severest of all the acts against the Dissenters, and which has as the only feature to redeem it from total infamy the exasperating circumstances in which the colonial Churchmen found themselves. The church acts were so displeasing that many electors refrained from going to the polls, and so took no part in the elections. To stop this practice the act provided that all qualified electors (except Quakers) should appear and vote for vestrymen, or incur a fine of twenty shillings, proclamation. In times past many of the vestry had neglected or refused to qualify.

<sup>1</sup> Col. Rec., VI., 595.

<sup>2</sup> *Ibid.*, VII., 241.

<sup>3</sup> Col. Rec., VIII., 202, 217, 218, 221, 503. Mr. Drage, the Episcopal minister, had a hard time in Rowan. The persons on the list returned for vestrymen declared that "they would not qualify, that they had thus kept the church out for years, and hoped to do so perpetually, with much impudence and impertinent threats. . . . They said it was their opinion every one ought to pay their own clergy, and what the law required was a constraint."

<sup>4</sup> *Ibid.*, VI., 33.

<sup>5</sup> *Ibid.*, VI., 563.

<sup>6</sup> *Ibid.*, VI., 715.

<sup>7</sup> *Ibid.*, V., 870; cf. also VI., 990.

They were now required to subscribe a declaration not to oppose the doctrine, discipline and liturgy of the Church of England as by law established; and a vestryman-elect refusing to qualify, "if he be a known Dissenter from the Church of England," was to forfeit £3. The vestry were to lay a poll of ten shillings or less for building churches, paying the salary of ministers, clerks and vestries, purchasing glebes and erecting suitable houses thereon, encouraging schools and maintaining the poor, and this tax could be collected by distress.<sup>1</sup> This act was to last for five years. It made the minister a member of the vestry, which had not been the case formerly and had caused much dissatisfaction. We have little comment on this law, but we can judge from the character of the complaints that have come down to us that it was regarded with the bitterest hostility.

William Tryon succeeded to the work left unfinished by Dobbs. In 1765 he recommends the re-enactment of the law of 1762, without its objectionable clause, and adds: "If I have pointed out any consequences that are likely to attend the continuance of the neglect of our religion, I hope no persons of a different persuasion will imagine I am an enemy to toleration. I profess myself a warm advocate for it in the fullest sense of his Majesty's indulgence, yet I must inform them I never heard of toleration in any country made use of as an argument to exempt Dissenters from bearing their share of the support of the established religion."<sup>2</sup> Tryon professes himself in the beginning a strong supporter of the orthodox church, and well he might be, for in his instructions sent over in 1765 the sections relating to the Church and the infamous Schism Act are again renewed.<sup>3</sup>

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<sup>1</sup> Davis's Revisal, II., 315, ed. 1765; *cf.* also ed. 1773, 434. The act of 1764 was changed in 1768 so as to include all persons under the penalty for refusal to qualify as vestrymen and was re-enacted for five years.

<sup>2</sup> Col. Rec., VII., 43.

<sup>3</sup> *Ibid.*, VII., 137. The Schism Act is §106 of Dobbs' instructions.

But the mere statement of the Schism Act was not all. We have seen what a difficult thing it was to procure school advantages of any sort under the royal government. At last a school-house was finished in New Bern. In 1766 Mr. Reed writes that "it is a large and decent edifice for such a young country, forty-five feet in length and thirty in breadth, and has already cost upwards of £300, this currency."<sup>1</sup> There was now to be a struggle for the enforcement of the Schism Act. The upper house insisted that a clause excluding all Dissenters from teaching in the school be inserted.<sup>2</sup> The Churchmen won in the struggle, and the Schism Act was enforced in North Carolina in 1766.<sup>3</sup>

Two years later the battle was fought again over the Edenton Academy. The lower house was democratic and liberal in its tendency. The Council was the opposite, and addresses them: "We observe that you have *deled* the following clause, viz. 'Provided also that no person shall be admitted to be master of the said school, but who is of the Established Church of England and who at the recommendation of the trustees or directors or the majority of them

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<sup>1</sup> Col. Rec., VII., 241.

<sup>2</sup> *Ibid.*, VII., 316, 392.

<sup>3</sup> While we have no direct testimony as to the influence of this act on the patronage of the school, we know that a considerable proportion of the pupils of Dr. Caldwell's school came from this section of the province; cf. Smith, *History of Education in North Carolina*, 41, quoting Caruthers' *Caldwell*, 30. After studying the explanation and defense made of this act by the writers in *Church History in North Carolina*, 171, 176-179, I am unable to see it in any other light than that given above. The New Bern school, if started on the church basis, became a public institution by accepting the duty on rum. The school at Edenton had no public aid, but *could not get a charter without this clause*; and Queen's Museum could not get one with the clause, because it was Presbyterian in sentiment, and such a charter would add "encouragement to toleration." Were these three acts independent of the former history of the colony it might be possible to explain them, but they are all in direct accord with the instructions of Governor Tryon, and these instructions had been unchanged since 1730. Hence we naturally conclude that they were a part of a deliberate policy.



shall be duly licensed by the governor or commander-in-chief for the time being.' Which clause we propose *stetting*."<sup>1</sup> The Commons objected and prayed that the bill be passed as it left them.<sup>2</sup> They won, and the bill was vetoed by the governor, "not esteeming the words 'with the approbation of his Excellency the governor or commander-in-chief for the time being'" as equivalent to the restrictions quoted above.<sup>3</sup> The school got no charter until 1770 and then with the restrictive clause inserted.<sup>4</sup>

We need not be surprised, then, when we find that North Carolina hated the Establishment and all it implied. We can understand the meaning of the words when Tryon writes that the people were "uneasy under the provisions of the clergy bill,"<sup>5</sup> that the citizens of Pitt seemed "as jealous of any restraint put on their consciences" as they had recently shown themselves of that put on their property,<sup>6</sup> and that the men of Mecklenburg thought an Establishment "as oppressive as the Stamp Act."<sup>7</sup> This was but the prelude to that drama of which the last scenes were to be enacted at Guilford Court House and Yorktown.

But not even all these rumblings of discontent served to warn the infatuated British government of the folly of its course. In 1771 they renew in their instructions to Governor Martin the clause relative to the Schism Act.<sup>8</sup> It is very probable that in the formal instructions to a colonial governor, renewed at uncertain intervals, some of the phases of these laws should escape the attention of the authorities, but they were none the less real and burdensome to the citizens of North Carolina, as they were soon to discover to their cost.

In 1771 the Assembly chartered Queen's Museum in Charlotte, an institution for higher education, of which

<sup>1</sup> Col. Rec., VII., 598.    <sup>2</sup> *Ibid.*, VII., 600.    <sup>3</sup> *Ibid.*, VIII., 6.

<sup>4</sup> Davis's Revisal, 478, ed. 1773.

<sup>5</sup> Col. Rec., VIII., 14.    <sup>6</sup> *Ibid.*, VII., 261.

<sup>7</sup> Rev. Andrew Morton to S. P. G., Col. Rec., VII., 253.

<sup>8</sup> Col. Rec., VIII., 514.

Governor Tryon says the necessity was obvious. The promoters of the movement yielded so far as to provide that the president should be of the Established Church and licensed by the governor, but the fellows, trustees and tutors would be, for the most part, Presbyterians. On this question the Board of Trade writes the King that "from the prevalency of the Presbyterian persuasion within the county of Mecklenburg we may venture to conclude that this College...will, in effect, operate as a seminary for the education and instruction of youth in the principles of the Presbyterian Church. Sensible as we are of the wisdom of that tolerating spirit, which generally prevails throughout your Majesty's dominions...still we think it our duty to submit to your Majesty, whether it may be advisable for your Majesty to add encouragement to toleration by giving the royal assent to an establishment, which in its consequences promises with great and permanent advantages to a sect of Dissenters from the Established Church who have already extended themselves over that province in very considerable numbers."<sup>1</sup> The recommendation of the Board of Trade was accepted and the King repealed the charter of Queen's Museum in 1773.<sup>2</sup>

This is the third time, at least, that the Schism Act was enforced in North Carolina after its repeal in England. There was less freedom of education in North Carolina in 1773 than in 1673; a more rigid conformity was required in the province than in England. This was injustice and intolerance, persecution and tyranny. The history of colonial North Carolina is a continual struggle against a government which sought to repress all aspirations whether political, religious or intellectual; for her the War of Independence was not a Revolution only; it brought with it a Reformation, and made possible a Renaissance.

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<sup>1</sup> Col. Rec., IX., 250.

<sup>2</sup> *Ibid.*, IX., 596, 665; cf. Davis's Revisal, 455, 501, ed. 1773; cf. also Dr. Smith's *History of Education in North Carolina*, 32, 33.

But the enforcement of the Schism Act was not all with which the soul of the Dissenter was vexed. In no way was the petty meanness of an Establishment brought out more clearly than in the regulations concerning marriages.

An act of 1669 had made marriage a civil contract, for lack of clergy.<sup>1</sup> By the vestry act of 1715 magistrates were empowered to perform the ceremony "in such parishes where no minister shall be resident."<sup>2</sup> In 1741 a special marriage act was passed. By this act the performance of the marriage ceremony was confined to clergymen of the Church of England, and, for want of such, to magistrates; and the minister serving the cure of any parish was to have the marriage fee whether performing the ceremony or not, "if he do not neglect or refuse to do the service thereof." This was the formal re-enactment of a clause of the vestry act of 1715. There is no recognition of the rights of Dissenters in this law, unless we can call the clause forbidding them to marry whites to negroes and Indians a recognition.<sup>3</sup> It is true that in this, as in the former cases, the Assembly did not undertake to give this right to the clergy, but simply recognized it as resting on prescription. But they might have granted this right to Dissenters as they proposed doing in the act of 1770. The Quakers seem to have been allowed to marry after their own fashion from the first, and why not allow this right to Presbyterians and Baptists?<sup>4</sup> But by this act their preachers

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<sup>1</sup> Col. Rec., I., 184. Fisher, *History of Christian Church*, 437, shows that the Puritans had early solemnized marriage as a civil contract only. But on top of this Doyle can say, *The English in America*, I., 453, that the acts of 1669, of which this was one, tended to make North Carolina "an Alsatia for ready and profligate adventurers." What should the people have done since they had no ministers—forbidden marriage and produced concubinage?

<sup>2</sup> Col. Rec., II., 212.

<sup>3</sup> Swann's Revisal, 127-130; ed. 1752.

<sup>4</sup> Cf. *Church History in North Carolina*, 68, 69. The Quakers had been organized now for sixty-five years, and there were certainly dissenting preachers in the colony. Besides, this law refers not only to the year 1741 but equally to the next twenty-five.

were debarred from performing the ceremony even among their own flocks. They were thus put to grave inconvenience, and the law of 1766 recites that the Presbyterians refused to consider themselves as bound by its provisions. This law made dissent burdensome and humiliating; it put a premium on conformity; it was religious persecution.

The next feature of the marriage question was developed during the discussion of the clergy bill of 1762. The governor and Council tried to force on the lower house a clause by which it was enacted that "no Dissenting minister of any denomination whatsoever shall presume on any pretence to marry any person, under the penalty of forfeiting £50." The law does not seem to have been successful,<sup>1</sup> but it is a clear statement of the tendency of the act of 1741, and shows the position of a certain element in the province.

There was no new marriage act between 1741 and 1766. The former had sought to prevent all Dissenters from celebrating the rite; but the Presbyterians did not consider themselves as coming under its provisions, and had joined couples without either license or publication. By the act of 1766 these marriages were legalized, and it was made lawful for any Presbyterian minister "regularly called to any congregation" to celebrate the rites of matrimony "in their usual and accustomed manner, under the same regulations and restrictions as any lawful magistrate." These marriages were always to be by license, and the minister of the Church of England was to have the marriage fee in all cases, unless he refused to perform the same.<sup>2</sup>

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<sup>1</sup> Col. Rec., VI., 881, 952, 954.

<sup>2</sup> Davis's Revisal, 350, ed. 1773. It was proposed (Col. Rec., VII., 411) to limit this law to three years, which was not done. It provided for no Dissenters *except Presbyterians*. But it seems that the original intention was to cover the case of all Dissenters. The second section probably read "dissenting *or of the dissenting Presbyterian clergy*." The clause in italics was stricken out and the phrase "dissenting or Presbyterian clergy" took its place, thus excluding all Dissenters except Presbyterians. . (*Ibid.*, VII., 329, 331, 411.) That this is the proper interpretation is evident from the

This law showed no favor to Dissenters other than Presbyterians. They got no recognition at all, and were, according to Tryon's fashion of looking at things, "enemies to society and a scandal to common sense."<sup>1</sup> We are to understand, moreover, that the Presbyterians were not thus favored out of any sense of justice and right, but because, as Governor Tryon writes, under the circumstances it could not "be of any real prejudice to the Established Church, especially as the marriage fee is reserved to the ministers of the parish."<sup>2</sup>

The law was liked little by the Presbyterians. It made no provisions for their missionaries who were laboring on the outskirts of the province but not in regular congregations. Those of Mecklenburg considered themselves "highly injured and aggrieved" by this law, "the preamble whereof scandalizes the Presbyterian clergy."<sup>3</sup> The Presbyterians of Tryon county were "much aggrieved" by this act. It took from them a privilege "which a million of our fellow-professors in America now enjoy...neither was it ever taken from Dissenters in America until it was taken from us by this act, of which we now complain."<sup>4</sup> The people of Anson petitioned against it,<sup>5</sup> and the manly protest from the inhabitants of Orange and Rowan claims that the right of "dissenting ministers" to perform the marriage ceremony after their own fashion was "a privilege they were debarred of in no other part of his Majesty's dominions; and as we humbly conceive a privilege they stand entitled to by the Act of Toleration, and, in fine, a privilege

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phrase "Presbyterian or dissenting clergy" in one section, and as an equivalent of it in the next "Dessenting or Presbyterian Clergy." The protests mentioned later indicate the same thing. This act remained in force until April, 1778. *Cf.* Laws of 1778, chap. 7.

<sup>1</sup> *Our Living and Our Dead*, III., 633. *Cf.* also Col. Saunders in Prefatory Notes to Col. Rec., VIII., xlv.

<sup>2</sup> Col. Rec., VII., 432.

<sup>3</sup> *Cf.* their petition for its repeal in Col. Rec., X., 1015.

<sup>4</sup> Col. Rec., VIII., 80b. <sup>5</sup> *Ibid.*, VIII., 78.



granted even to the very Catholics in Ireland and the Protestants in France.”<sup>1</sup>

The Churchmen could not wholly resist the pressure against this law. In December, 1770, an act was passed, but with a suspending clause, allowing *Presbyterian ministers* the right to celebrate marriage by publication of banns or by license, *without “the payment of fees to the incumbent of the parish.”*<sup>2</sup> It is interesting to note with what satanic disregard of the rights of man the leaders in the Establishment can write. Says Reed: “The bill was pushed by the dissenting interest, and [because of] the dangerous situation of the province from such a formidable number of malcontents [Regulators], the governor acted with the greatest prudence in passing the bill with a suspending clause.... Should this act receive the royal assent it would be a fatal stroke to the Church of England, but as the insurrection is entirely quelled, I flatter myself with hopes that the act will meet with a repulse.”<sup>3</sup> Again the Board of Trade writes that this regulation appears to act as “a bounty to the tolerated religion”; they add their petition for its disallowance,<sup>4</sup> and his Majesty graciously listens to the advice of his councilors, and his subjects in the wilds of Carolina were left without remedy. Not until the Revolution and the Constitution of 1776 had swept away the Establishment did the dissenting clergy have the legal right to perform the marriage ceremony.<sup>5</sup>

But the ills under which the colony suffered were not borne in silence, for the petition from Rowan and Orange, which I have just quoted, was presented to Governor Tryon

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<sup>1</sup> Col. Rec., VIII., 82.

<sup>2</sup> Act in Col. Rec., IX., 7; cf. Davis's Revisal, 480, ed. 1773; cf. also Col. Rec., VIII., 297, 300, 322, where a committee on the laws argues strongly in favor of its passage.

<sup>3</sup> Col. Rec., IX., 6.

<sup>4</sup> *Ibid.*, IX., 7, 248, 251, 284, 366.

<sup>5</sup> This was secured by the act of 1778, where “all regular ministers of the Gospel of every denomination” were so authorized; cf. Iredell's Revisal, 354.

by Herman Husband, the leader of the Regulators.<sup>1</sup> It embodied the grievances against which those counties were complaining. The lack of religious liberty occupies a conspicuous place in the complaints of the inhabitants of Tryon, Rowan, and Orange counties, and the fight at Alamance, on the sixteenth of May, 1771, the first pitched battle of the Revolution, was not a struggle for civil liberty only; it was equally a struggle for religious liberty. The beginnings of the Establishment in North Carolina were marked by the "Cary Rebellion"; the struggles against it were continuous, and the close of its career follows hard on the War of the Regulation and the battle of Alamance.<sup>2</sup>

Again, the injustice of an Establishment was shown in the laws relating to mustering, and in this all Dissenters were concerned. The clergy of the Church of England had been exempted from this duty as early as 1746 at least; but not until 1764 were Presbyterian ministers, and then only those who were "regularly called to any congregation," exempted from service.<sup>3</sup> As early as 1755 an attempt

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<sup>1</sup> Swain, War of Regulation, in *North Carolina University Magazine*, IX. (1859-60), 339.

<sup>2</sup> The writer does not claim that the lack of religious freedom was more than one of a number of causes of the War of the Regulation. But he cannot agree with the hostile attitude assumed toward the Regulators by Colonel A. M. Waddell in his *A Colonial Officer and His Times*, 130 *et seq.* Governor Tryon is reported to have said that the Regulators were a faction of Quakers and Baptists who were trying to overturn the Church of England. All the Baptist historians, Morgan Edwards, *History of North Carolina Baptists*, George W. Purify, *History of Sandy Creek Association*, R. I. Devin, *History of Grassy Creek Church*, have taken pains to disclaim participation in this movement by their coreligionists, and to condemn the few Baptists who were engaged in the movement as if it were a heinous crime; but this is unnecessary, for the Baptists do not seem to have done much for religious liberty in North Carolina. Religious freedom was represented in the earlier half of the struggle by the Quakers, and in the later half by the Presbyterians.

<sup>3</sup> Swann's Revisal, 215. Davis's Revisal, 310, ed. 1765.

had been made to get a law exempting Quakers, but it was opposed by the Council, who offered to substitute in place of the regular equipment of the soldier that of the pioneer,—axe, spade, shovel or hoe.<sup>1</sup> This failed to become law; but by the terms of a special act passed in 1770 for five years the Quakers were released from attendance on general or private musters, provided that they were regularly listed and served in the regular militia in case of insurrection or invasion.<sup>2</sup> There seems to have been no general law of exemption for ministers. Presbyterians and Quakers were favored by special enactment, while Baptists were simply ignored.

The Quakers met with trouble in another way bearing on our subject. This was the question of the affirmation. Under the North Carolina act of 1715 every Quaker who was "required upon any lawful occasion to take an oath in any case" was permitted to make his affirmation instead.<sup>3</sup> It seems this was intended to meet all conditions, for the preamble recites that the oath was to be taken in "courts of justice *and other places*." We have no record of conflict under this law, but it would seem that the defeat of the liberty of conscience act in 1741 indicated a change in public opinion for the worse; and while there is nothing in the records of the Quakers to indicate that they were to be singled out, we have one case of persecution which comes under this rubric. In 1747 William Borden appears as a member of the Assembly duly elected from the county

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<sup>1</sup> Col. Rec., V., 269, 291, 506, 538.

<sup>2</sup> Davis's Revisal, 455, ed. 1773; *cf.* also the acknowledgment of the Quakers in Col. Rec., IX., 176. Because of their peculiar views the Quakers suffered about as much from military fines as from tithes. In the Revolution this became heavier. In 1778 they paid £1213:9:2 in military fines, in 1779 it amounted to £2152:5:10, and in 1780 to £841:15:7, "good money, silver dollars at eight shillings." The writer does not think that the injustice came in here in requiring Quakers to bear arms, but in the fact that their preachers were not exempted from this duty, as the clergymen of the Establishment were.

<sup>3</sup> Col. Rec., II., 884.

of Carteret. He informed the authorities that he was a Quaker and "therefore desired his solemn affirmation might be taken," which he evidently expected to be done. This affirmation a committee of the Council appointed to qualify the members of the lower house refused to receive, and a new election for a successor to Borden was ordered.<sup>1</sup>

We may summarize the work done so far by saying that in 1776, by a slow and laborious process, some recognition of Dissenters had been wrung from the Churchmen. This recognition was confined to Presbyterians and Quakers; while the Baptists, although strong and vigorous, were entirely unrecognized.<sup>2</sup>

There was little direct persecution in North Carolina. There was no opportunity for it under the existing laws, and the Dissenters were aggressive and powerful. The manuscript records of the Friends show perfectly conclusively that while they suffered distraint for tithes and military levies, they were not imprisoned. They suffered no bodily violence. We have found no case, save that of Borden, where they were deprived of office because of religious views. But Dissenters were not prominent as officeholders during the royal period. They seem to have reached no higher than the lower house of the Assembly. They were, perhaps, never in the Council, and we may be certain that no Dissenter could have been appointed to the governorship, as had been done under the Proprietors. There was more religious liberty at the beginning than at the close of the colonial life of North Carolina, but there is no well authenticated case of bodily persecution in our annals, unless we count the imprisonment of the Quakers who refused to

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<sup>1</sup> Col. Rec., IV., 855-857.

<sup>2</sup> There were Methodists in the province as early as 1760 (Col. Rec., VI., 264, 565, 594, 1047, 1060; VII., 97, 102), but they had not yet been differentiated from the Established Church; cf. *The History of Methodism in North Carolina in the Eighteenth Century*, now in preparation by Mr. Robert H. Willis.

bear arms in 1680 as such, and this seems to have been more political than religious in its character.<sup>1</sup>

The persecution in North Carolina was indirect; men were not put in jail, but they were harassed and subjected to injury and loss in other ways.

(1) They were required to pay tithes, and thus help to support a clergy other than their own. The fact that these laws were passed by natives of North Carolina, rather than by the British government, does not relieve the odium of

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<sup>1</sup> This brings us to the much-disputed case of the Baptists in New Bern. On June 20, 1740, we find a "sect of dissenting people called Bapbtists" petitioning for the liberty to build a house of worship, "they desiring to preach among themselves." The petitioners were duly examined before the court and acknowledged "all the articles of the Church of England except part of the 27th and 36." The matter was referred. When it came up in the afternoon, parties "made oath to several misdemeanors committed by the s<sup>d</sup> Petitioners contrary to & in contempt of the laws now in force. Upon which it was ordered by this court the s<sup>d</sup> Petitioners be bound by Recognizance for their appearance at the next court of assize and Goale delivery to be held at this Town then & there to answer to such things as they shall be charged with and in the meantime be of Good behavior to all his Majesties Liege People." John James, William Fulsher, Francis Ayers, Lemuel Harvey, Nicholas Purify and John Brooks forthwith appeared and gave bond, dividing the securities among themselves. The petition came up again in September and was granted. This much is clear and nothing more. But about 1879 Rev. John T. Albritton made the statement that Baptists had been whipped in New Bern. It was denied. He asked the editor of the *New Bern Journal* to look the matter up. This was done, and, Sept. 6, 1883, the *Journal* printed an editorial in which it is stated that when Baptists applied in 1741 for the privilege of building a church, which they could do under the Toleration Act (this act required that the meeting-houses of Dissenters be registered. The Presbyterians of Rowan registered theirs (Col. Rec., VIII., 227, 507), and in 1758 the Quakers concluded to have theirs registered), they were not only refused the privilege, but were whipped, bound over to keep the peace, required to give bond for good behavior and to take the Test Oath.

After many efforts I have been unable to get a copy of this editorial in any form. There are persons living who claim to have



the laws. They were none the less oppressive for that reason.<sup>1</sup> It is difficult for us to tell how extensive and burdensome these tithes were; but that is of small moment, as a matter of principle was involved rather than one of pounds, shillings and pence. We may, perhaps, take the Friends as representing the general success of the tithe law. Prior to 1700 they had ordered that a true account of sufferings for truth's sake be kept. This was renewed in 1723 and again in 1756. In 1726 Friends in Perquimans complain of unlawful distraint, and report the case to the Meeting for Sufferings in London. In 1755 a committee was

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seen the original record which is now lost, but they cannot be induced to publish what they know, nor have I been able to get so much as a written statement that is definite and tangible. The advocates of persecution content themselves with vague assertions, and the photographs made by the Baptists of the Craven county records prove nothing whatever as to persecution. Dr. Vass, who was on the ground, looked the matter up very carefully not long after the time the *Journal* did and could find no indication of whipping. Cf. the account given in his *History of the Presbyterian Church in New Bern, N. C.*, 81-84.

Since the above was in type, two articles on this subject by Rev. Dr. C. Durham appeared in the *Biblical Recorder* for March 29 and April 5, 1893. The *Journal* editorial is quoted; a tradition in regard to this persecution has come down to our day; the records, which had been previously photographed, are printed, but no new material is produced. It is claimed that the record "has, seemingly by design, been mutilated," but they were intact when Dr. Vass examined them and he could find no evidence. Dr. Durham promises a third article. Cf. also *Church History in North Carolina*, 61.

<sup>1</sup> Dr. Cheshire, *Church History in North Carolina*, 88, 89, calls attention to the fact that these clergymen were not paid by the British government as has been claimed. It is incomprehensible how such an egregious blunder should arise. But I cannot agree with him when he says that "there was practically no discontent among the people," or that it was never felt "to be a popular grievance, nor had it created prejudice against the Church among the people of the Revolutionary period" (p. 253). I think the quotations I have made from the records will show that these statements are not exact.

appointed whose duty it was "to take the opportunity with some of the vestry so as to inform themselves on what account the levies are laid, before the time of the same, in order to prevent the like hereafter." Sufferings in 1756, chiefly for the maintenance "of an hireling priest," £10 14s. 5d.; two years later it was £14 17s. 6d., for same cause. The next year there was "a shortness in some Friends in respect to a compliance with the payment of the demand to support a hireling ministry. Friends are recommended to be more careful, diligent, watchful." Sufferings, 1759, £85 and over; 1760, £23; 1761, "Friends have had no sufferings this year, part we believe is owing in a great measure to the moderation of the officers." No sufferings in 1762, nor in 1765; 1768, fines reported amounted to £5 4s., "being for priests' wages and repairing of their houses called churches." In 1772, no suffering, except 30s., "church rates so-called"; none in 1773 or 1774.<sup>1</sup>

The amount of tithes collected here is ridiculously small. The whole amount for half a century would hardly support two clergymen decently for a year; but in this small sum was wrapped the whole principle of liberty of conscience.

(2) They suffered under muster laws, where a distinction was made in favor of the clergymen of the Church of England and against dissenting ministers.

(3) Presbyterian ministers were not allowed to perform the marriage ceremony until 1766. Even then the fee went to the minister of the Church of England. Other Dissenters, Quakers excepted, were not allowed this right before 1776.

(4) The most infamous section of all, the continued reenactment and enforcement of the Schism Act, which had been repealed in England in 1718. This act exasperated the Dissenters, throttled the few sickly schools that had begun to rise in the province, put a premium on the Estab-

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<sup>1</sup> Manuscript Records of Friends' Monthly, Quarterly, and Yearly Meetings in North Carolina.

lishment and on ignorance, separated the different denominations from each other, hindered free political discussion by keeping men ignorant of political matters, and is directly responsible for the large percentage of ignorance and for the backwardness in intellectual life so characteristic of the State to-day.<sup>1</sup>

For this state of affairs we must hold both the English and colonial governments responsible. The initiative was taken by the home government. It was sanctioned and carried to its literal fulfilment by a powerful set in the colony. Illiberal ecclesiastical acts could have been easily made a dead letter, if not repealed, had the colonists opposed them, since these colonists were not at a loss for expedients to circumvent the British authorities.

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<sup>1</sup> Strangely enough, Dr. Charles Lee Smith, in his excellent *History of Education in North Carolina*, has entirely failed to recognize the importance of the Schism Act in its relation to education; cf. 32, 41, 42.

## CHAPTER IV.

### THE FALL OF THE ESTABLISHMENT.

As the days of the Revolution drew nearer, the Established Church grew relatively weaker. The struggle against the increasing number and power of the Dissenters was continued, but the State support on which its clergymen depended often failed them. This fact will explain and mollify many of their harsh criticisms of the colonists; but the support failed through no fault of the colonial Churchmen. They did what they could; the spirit of the age was against them.

With the end of the seventh decade ecclesiastical legislation ceased. The Vestry Act of 1768 is the last law in North Carolina seeking to perpetuate an endowed Church at the expense of other denominations. From 1770 the entries in the records in regard to Church affairs become fewer; as times became more troublesome the mouths of the missionaries, who were mostly Tories, were gradually stopped. The Vestry Act of 1768 expired by limitation in 1773, and the law amending and further continuing it, passed in 1774, related solely to the poor.<sup>1</sup> The Establishment was dead.

But the Establishment threatened for the time to make a breach in the ranks of the patriots. "Distinctions and animosities," writes Governor Martin in 1774, "have immemorially prevailed in this country between the people of the Established Church and the Presbyterians on the score of the difference of their unessential modes of church government and the same spirit of division has entered into, or

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<sup>1</sup> Col. Rec., IX., 1014.

been transferred, to most other concerns; at present there is no less apparent schism between their politics than in matters appertaining to religion, and while loyalty, moderation and respect to government seem to distinguish the generality of the members of the Church of England, I am sincerely sorry to find they are by no means the characters of the Presbyterians at large." "If my opinion is right," he adds, "I submit to your lordship's wisdom the expediency of giving greater encouragement to the Establishment of the Church of England in a political view with respect to religion."<sup>1</sup>

This recommendation of Governor Martin was the dying wail of the Establishment. But it was uttered in vain. The great majority of the Churchmen remained faithful to the cause of the colonies, and the Establishment simply disappears from the history of North Carolina. A majority of its ministers remained faithful to the home government and were deprived of their cures. They returned to England, and the Episcopal Church received a set-back from which it did not recover for a generation. Others threw in their lot with the colonists and became useful citizens of the infant State.<sup>2</sup> The correspondence of the S. P. G. disappears. Its work, whether good or bad, had been done, and it passed from politics into history. The Dissenters had kept up a manly fight; for three-quarters of a century they had struggled for the rights of man. The struggle was now rising to its flood, and on the crest of the receding waves of royalty went the Establishment with all its means.

Dissatisfaction seems to have reached, if possible, a higher height in Mecklenburg than elsewhere. These people were

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<sup>1</sup> Col. Rec., IX., 1086. Governor Martin was writing from New York, but it is evident that he did not intend his remarks to apply to that province alone. Further, he expresses his desire that the clergy of North Carolina be put on a better footing, since religion helps to maintain "order and good government." We know what "good government" meant with him.

<sup>2</sup> Rev. Charles E. Taylor was a chaplain to the Provincial Congress, Col. Rec., X., 140, 169.



mostly Scotch-Irish and had been Dissenters for generations before coming to America. This county, which was to become soon the "Hornet's Nest" of the Revolution, instructed its delegates in September, 1775, to oppose in the Congress that was to meet in Halifax in April, 1776, "any particular church or set of clergymen being invested with power to decree rites and ceremonies and to decide in controversies of faith to be submitted to under the influence of penal laws." They were to oppose also "the establishment of any mode of worship to be supported to the opposition of the rights of conscience."<sup>1</sup>

But this convention was busy making preparation for war, and did nothing. The instructions to the delegates to the Halifax Convention of November, 1776, are still more clear-cut and positive in their position. They are in the handwriting of Waightstill Avery, a representative of the best Puritan blood of New England. Sections twenty and twenty-one of these instructions sum up the cause for which the Dissenters had carried on their long war:

"That in all times hereafter no professing Christian of any denomination whatever shall be compelled to pay any tax or duty towards the support of the clergy or worship of any other denomination.

"That all professing Christians shall enjoy the free and undisturbed exercise of religion, and may worship God according to their consciences without restraint except idolatrous worshippers."

After the adoption of the constitution and form of government, the delegates were instructed to "endeavor to have

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<sup>1</sup> Col. Rec., X., 241. This paper was the work of Dr. Ephraim Brevard and will compare favorably with any State paper in America. The liberality of the man is indicated by the fact that in naming a basis for their "Religion of the State," the Presbyterians put the 39 Articles, excluding the 37th and those suspended by the Toleration Act, on a level with the Westminster Confession. (cf. Foote's *Sketches of North Carolina*, 68-76.

all vestry laws and marriage acts heretofore in force totally and forever abolished.”<sup>1</sup>

These instructions had immediate effect. A clause was inserted in the Declaration of Rights recognizing “the natural and unalienable right to worship Almighty God according to the dictates of their own consciences.” But this was not all. They inserted a section in their constitution:

“XXXIV. That there shall be no Establishment of any one religious Church or Denomination in this State in Preference to any other, neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship contrary to his own Faith or Judgment, or be obliged to pay for the purchase of any Glebe, or the building of any House of Worship, or for the maintenance of any Minister or Ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform, but all persons shall be at Liberty to exercise their own mode of Worship. Provided, That nothing herein contained shall be construed to exempt Preachers of treasonable and seditious Discourses, from legal trial and Punishment.”<sup>2</sup>

The divorce of Church and State was complete.

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<sup>1</sup> Col. Rec., X., 870*d*. According to these instructions, Atheists were to be excluded from holding office, and its liberality is marred by the exclusion of Unitarians and Catholics also.

<sup>2</sup> This Convention met at Halifax on November 12, 1776, and adjourned December 23.

## CHAPTER V.

### EPILOGUE.

Little more remains to be said on the history of Church and State in North Carolina. In 1774 the Assembly now calling itself a Provincial Congress, took charge of and controlled the government; but there is nothing in the proceedings of these Congresses disturbing the *status quo*. There were five Provincial Congresses. The first met in Newbern in August, 1774. The fifth met in Halifax in November, 1776. This Congress adopted, on December 17, the Bill of Rights, and on the next day a State Constitution. These instruments contained the provisions for religious freedom which have been already mentioned. It now only remained for the laws of the new State to be brought into conformity with her new Constitution. The Established Church fell with its adoption. An ordinance was passed securing to the different churches such glebes, lands and tenements as they already possessed. Marriage was put on a new footing in 1778<sup>1</sup> by a law giving the privilege of performing the ceremony to all ministers alike. The terms of the affirmation for Quakers, Moravians, Mennonites, and Dunkards were fixed.<sup>2</sup> The law in regard to the care of the

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<sup>1</sup> Laws of 1778, ch. 7, Iredell's Revisal, 354.

<sup>2</sup> Laws of 1779, chap. 10, Iredell's Revisal, 369; cf. also Laws of 1780, ch. 13, *ibid.*, 400, and Laws of 1784, ch. 29, *ibid.*, 505.

The Quakers were not willing to take the oath of allegiance (Laws of 1777, ch. 10), and say in a petition to the Assembly that the setting up and pulling down of governments and kings is God's work and that they "cannot be active either for or against any power that is permitted or set over us." They hoped the State would consider their principles a much stronger security than any test (Yearly Meeting Records). In 1778 it was decided to labor with those who took the "affirmation of allegiance or fidelity," in love and tenderness; if they remained stubborn they were not to be considered

orphan children of Quakers, passed in 1762, was repealed,<sup>1</sup> and with this repeal ecclesiastical laws disappear from our history.

But there was still another stage in the separation. There was no guarantee of religious freedom in the Federal Constitution as proposed to the States in 1787. The absence of this guarantee provoked so much criticism in no other State as in North Carolina. The leaders in this attack were the Rev. Henry Abbot, of Camden county, a Baptist minister, who had been a member of the second Halifax Convention in 1776, and who is said to have been the author of the clause of the Bill of Rights declaring for religious freedom,<sup>1</sup> Rev. David Caldwell, representative from Guilford, the most distinguished Presbyterian divine in the State, and Gen. William Lenoir, one of the heroes of '76.

Abbot said some were afraid that under this new constitution they might be deprived of the privilege of worship-

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active members. The next year they considered the matter again and concluded that they could not "consistently take any test while things remain unsettled and still to be determined by militia force." (Quarterly and Yearly Meeting Records.)

<sup>1</sup> Laws of 1784, ch. 29, Iredell, 505.

<sup>2</sup> Abbot was a member of the committee on the Bill of Rights and Constitution; tradition ascribes to him the nineteenth clause of the former. This claim is evidently founded on a passage in Burkitt and Read's *Concise History of the Kehukee Baptist Association* (pp. 107-109), where the author remarks, "to him we owe our thanks, in a measure, for the security of some of our *religious rights*." This statement was repeated by Biggs in his continuation to Burkitt (pp. 87-89), and has been amplified by later writers. Burkitt was a contemporary and an acquaintance of Abbot, and we may assume that the statement is substantially correct. Abbot was the son of John Abbot, Canon of St. Paul's. While still young he ran away, came to America and settled in that part of Pasquotank county which is now Camden. He taught school until his conversion, when he became an itinerant Baptist preacher. He acted in this capacity for a few years, and in 1764 or 1765 took charge of Shiloh church in Camden county. He was a man of much public spirit and had been a member of the Halifax Convention of April, 1776, as well as of the second convention in November. He died in May, 1791.

ing God according to their conscience. Would their liberties be secure, or would the general government make laws infringing these liberties? It was feared that the authority which had the treaty-making power might enter into an engagement to adopt the Roman Catholic religion, which would prevent the people from worshiping God according to their own consciences. If there is to be an Establishment, what shall be its form? As there are no religious tests, pagans, deists and Mahometans might obtain office, and senators and representatives might all be pagans. By whom were men to swear?—by Jupiter, Juno, Minerva, Proserpine [*sic*], or Pluto?<sup>1</sup>

To these arguments, James Iredell, later a Justice of the Supreme Court of the United States, replied. He recognized the evils of religious persecutions. The purpose of the convention was to establish a general religious liberty. Congress has no authority to interfere in the establishment of any religion whatsoever; if there is a religious test, how is it possible to exclude any set of men without taking away that principle of religious freedom which we ourselves so warmly contend for? He had just seen in a pamphlet that the Pope of Rome might become president;<sup>2</sup> there was no provision against such an emergency, nor was there one against one of the kings of Europe; one would be as rational and judicious as the other.

Gov. Samuel Johnston said a Jew, a Mahometan or a pagan could get office only in one of two ways: either the American people would have to lay aside the Christian religion altogether, or such persons would have to acquire confidence and esteem by good conduct and the practice of virtue.

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<sup>1</sup> Elliot, *Debates*, I., 277, says the clause abolishing religious tests passed "unanimously in the affirmative," but Madison reports that North Carolina voted against it; cf. Schaff, *Church and State in United States*, in *Papers American Historical Association*, II., 403.

<sup>2</sup> Schaff, *Ibid.*, 407, says this remark was made by a delegate from North Carolina in the Convention of 1787. I have not been able to fix the authorship of the pamphlet to which Iredell refers.



Dr. Caldwell thought the absence of the test was an invitation to Jews and pagans of every kind, and that these might endanger the character of the United States.

Judge Samuel Spencer replied that he was in favor of religious liberty in particular; no one particular religion should be established; religious tests have been the foundation of persecution in all countries; they keep good men out of office, not bad ones; is it reasonable to suppose that men would be chosen without regard to their characters?

Gen. Lenoir said that there was no provision against infringement of the rights of conscience; that ecclesiastical courts might be established which would be destructive to our citizens; these courts might make any establishment they thought proper.

Mr. R. D. Spaight denied that the power to establish ecclesiastical courts was given to Congress.

Mr. William Lancaster said that a test would secure religion, and that religious liberty ought to be provided for. "But let us remember that we form a government for millions not yet in existence. I have not the art of divination. In the course of four or five hundred years I do not know how it will work. This is most certain, that Papists may occupy that chair, and Mahometans may take it. I see nothing against it."<sup>1</sup>

The Federalists, under the leadership of Iredell, Davie, Maclaine, Johnston, and Spaight, made a gallant fight for the adoption of the Constitution; but the lack of a Bill of Rights, and a guarantee of religious freedom, and the strong centralizing tendency of the instrument were too much for them, and the Convention resolved "neither to ratify nor to reject the Constitution," but "that a declaration of rights, asserting and securing from encroachment the great principles of civil and religious liberty, and the unalienable rights of the people, together with amendments to the most ambiguous and exceptionable parts of the said Constitution of government, ought to be laid before Congress and the con-

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<sup>1</sup> Discussion in Elliot's *Debates*, 2d edition, vol. 4, pp. 191-215.

vention of the States that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid on the part of the State of North Carolina."

In accord with this program, a declaration of rights, consisting of twenty articles, the last of which declares for "an equal, natural and unalienable right to the free exercise of religion according to the dictates of conscience," and twenty-six amendments to the Constitution itself were recommended to the States for adoption.<sup>1</sup>

North Carolina was therefore unrepresented in the extra session of the first Congress. This session took up the question of amendments, and twelve were proposed to the States. One of these, now standing as the first, provided that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." These amendments covered the vital principles for which North Carolina had been striving. It became evident that they would be adopted, for the same features had been emphasized by Virginia, New Hampshire, and New York, and North Carolina adopted the Federal Constitution without debate in convention at Fayetteville, November 21, 1789.

There remains but one thing more. The thirty-second section of the Constitution of 1776 read: "That no person who shall deny the Being of God, or the truth of the Protestant religion, or the divine authority either of the Old or New Testament, or shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State."<sup>2</sup>

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<sup>1</sup> This declaration of rights is the same as that adopted by Virginia in June of the same year. The Virginia amendments were twenty in number. North Carolina adopted these and added six others.

<sup>2</sup> This section has been accredited to Rev. David Caldwell (Foote, *Sketches of North Carolina*, 240). It was opposed by Governor

It was never possible to arrive at any uniformity of belief as to the parties intended. Judge Gaston summarized the state of belief in his great debate in the Convention of 1835 as follows: "One [of the previous speakers] informs us that it excludes nobody—that it cannot be interpreted to exclude anybody—that, for want of a tribunal to enforce and expound it, the entire provision is a dead letter, as if it had never been embodied in the instrument. Another thinks that it clearly excludes atheists and such deists as make a parade of their infidelity, by proclaiming the Holy Scriptures to be false. A third believes that it disqualifies atheists, deists, and Jews—for that the latter necessarily deny the divine authority of the New Testament, and deists deny the divine authority both of the New and Old Testament. A fourth supposes that these are excluded, and that it was intended also to exclude Catholics, but that the language is not sufficiently explicit to warrant a judicial exposition to that effect. A fifth holds that it was not only intended to exclude, but, by a legal construction, does exclude them. A sixth is satisfied that Quakers, Menonites, and Dunkards are disqualified, because their doctrine, that arms cannot lawfully be used in defense of the country, is subversive of its very freedom and repugnant to its safety. Some think it will be a matter of fact for a jury to determine—others, a matter of law, for a court, to pronounce what religious principles are incompatible with the freedom and safety of the State—while not a few are inclined

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Johnston: "Unfortunately, one of the members from the back country introduced a test, by which every person, before he should be admitted to a share in the Legislature, should swear that he believed in the Holy Trinity, and that the Scriptures of the Old Testament was written by divine inspiration. This was carried after a very warm debate, and has blown up such a flame, that everything is in danger of being thrown into confusion." (McRee's *Life and Correspondence of James Iredell*, I., 339.)

to hold that the Legislature may, in this respect, define what the Constitution has left vague and uncertain.”

The clause had probably been aimed at Roman Catholics. But it had never been interpreted against them. Thomas Burke, who “publicly professed and openly avowed the Catholic faith,” had been a member of the Continental Congress from North Carolina, and in 1781 had been elected governor of the State. Judge Toomer said that this clause was a declaration of principles, not a proscription of individuals; that infidels and Jews had been members of each branch of the General Assembly;<sup>2</sup> that votaries of the Romish Church had filled the highest executive, legislative and judicial stations in the State; that the construction of the section had been settled by the decisions of every department of the government and that this had been accepted by the people.<sup>3</sup> Mr. Fisher said all offices had been filled by Catholics from governor down to constable.<sup>4</sup>

The most distinguished of these Catholics was William Gaston, one of the best and purest men whom North Carolina has produced. He had been a member of the State Senate, he was Speaker of the House of Commons, he was a representative in Congress; but his right to hold these offices had never been questioned. In 1833 he was chosen

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<sup>1</sup> *Debates of Convention of 1835*, 270, 271. It was on this occasion that Judge Gaston made his famous address in defense of the Catholic Church, *Debates*, pp. 264-305, which did much, no doubt, to move the Convention toward a more liberal view; but his historical references are sometimes warped and even untrue. In 1823, during the “Western Convention,” Henry W. Harrington moved that this clause be stricken out. It was discussed favorably, but was withdrawn as foreign to a “Western Convention.” *Ibid.*, 275.

<sup>2</sup> Judge Gaston instances the case of Jacob Henry, a Jew, who was in the House of Commons in 1808 from Carteret. The clause did not exclude these classes from legislative offices, but only from civil. They could make, but could neither execute nor interpret the laws!

<sup>3</sup> *Ibid.*, 314, 319.

<sup>4</sup> *Ibid.*, 327. Cf. also a summary of these by Martin I. J. Griffin, in *American Catholic Historical Researches*, July, 1890, pp. 129-133.

a Justice of the Supreme Court by the Legislature. In a letter to Thomas P. Devereux he explains how he can hold office under this clause: The Constitution is based on the general principles of civil and religious liberty; therefore all citizens are competent to take and to hold office who are not clearly disqualified; it was in the power of the people to create penal incapacity, but persons must be unequivocally debarred before this can take effect; the only part of the Constitution that can be so interpreted is the thirty-second section; it is possible that some of the framers intended to exclude Catholics; but what is the Protestant religion? We have no establishment to determine the truth of that religion and pronounce on schism and heresy; this establishment is forbidden by the Constitution; the Constitution has not defined the Protestant religion, has not excluded Catholics or any other denomination *eo nomine*, and is therefore inefficient and unmeaning. Is a belief in the Catholic a denial of the truth of the doctrines of Protestants? Again, test laws and disqualifying enactments were familiar to England and her colonies; if this old system of proscription had been intended, can it be doubted that the intent would have been unequivocally manifested? Judge Gaston concluded that he was not disqualified and that he had "no right by any over-nice scruples to be instrumental in practically interpolating into that instrument an odious provision which it does not contain."<sup>1</sup>

Judge Gaston had assumed his seat on the supreme bench, and there had been no complaint; but it was thought best to amend the section when the matter came up for settlement in the constitutional convention. The debate on the section was long, but almost wholly in favor of amendment;<sup>2</sup> the opposition argument being based largely on the

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<sup>1</sup> *North Carolina University Magazine*, VII. (N. S. 1887-88), 61-63; included in his Convention speech.

<sup>2</sup> The printed debates make a volume of 424 pages, octavo, of which this section takes up pp. 213-332.



fact that it was already dead. It was determined to substitute the word "Christian" for "Protestant," and thus, in the eloquent words of Judge Gaston, was the carcass of this last remnant of religious persecution interred, "lest its pestilential effluvia should poison the atmosphere of Freedom."

#### BIBLIOGRAPHICAL NOTE.

A number of books and monographs have been published on the history of the Baptists, Episcopalians, Lutherans, Methodists, Moravians, and Presbyterians in North Carolina, but the authors have in most cases confined themselves to the growth and development and the inner life of the denomination. Little attention has been given to their relations to other denominations or to the State.

The question of Church and State has been discussed from the Presbyterian standpoint by Rev. E. W. Caruthers, in his *Life of Rev. David Caldwell, D. D.* (Greensboro, 1842); by Rev. L. C. Vass, in his *History of the Presbyterian Church in New Bern, North Carolina* (Richmond, 1886), who gives a résumé of ecclesiastical affairs in eastern North Carolina; and from the Episcopal view by Rev. Joseph Blount Cheshire, in *Church History in North Carolina* (Wilmington, 1892). The principal materials used in this paper were *The Colonial Records of North Carolina* (10 vols., Raleigh, 1886-1890), the *Laws of North Carolina* (Revisals of 1752, 1765, 1773, 1791), *Elliot's Debates* (Washington, 1836), the *Debates of the Convention of 1835* (Raleigh, 1836), and the manuscript records of the Monthly, Quarterly and Yearly Meetings of the Friends, now in the care of Josiah Nicholson, Esq., Belvidere, North Carolina, and of Prof. J. W. Woody, Guilford College, North Carolina.



# THE PHILOSOPHY OF EDUCATION.

By WILLIAM T. HARRIS, LL. D.

*U. S. Commissioner of Education.*

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A course of five lectures on the Philosophy of Education was given to those members of the University who are engaged in teaching or who expect to become teachers, by William T. Harris, LL. D., Commissioner of Education, January 7-14, 1893. An abstract of the principal topics discussed is here given.

The following list of books is suggested as useful for reference in connection with the course:

1. Rosenkranz: *Paedagogik als System* (*English Translation, D. Appleton & Co., New York*). Third part, treating of the substantial contents of the national education—its sacred books, and the idea that the nation stands for in the history of the world. (Lecture 1.)
2. Karl Schmidt: *Geschichte der Paedagogik*; gives a much fuller statement of the details of the culture systems of the several nations. (Lecture 1.)
3. B. H. Quick; *Educational Reformers*. (Lectures 2, 3, 4, and 5.)
4. Pestalozzi: *Lienhard und Gertrud*. (*English Translation, Boston.*) (Lecture 3.)
5. Herbart; *Lehrbuch zur Psychologie*. (*English translation, New York.*) (Lecture 3.)
6. Rousseau: *Emile*. (Lecture 4.)
7. Herbert Spencer; *Essay on Education*. (Lecture 5.)

## LECTURE I.—January 7th, 1893.

### THE LITERATURE OF EDUCATION.

The first and most important of all educational literature is that showing the ideals of a people—the literature on which they are brought up—generally the sacred books which reveal what the people regard as divine; consequently what is the highest ideal to be realized. China, for example, has Confucius and Mencius, showing the family as the type of the social whole. These writings furnish the contents of the mind of the Chinese—minute observances of etiquette; how to behave towards one's elders and superiors in rank; towards one's inferiors or juniors; towards one's equals. Chinese schools are almost exclusively devoted to filling the memory of the pupil with the ethical maxims of these sacred books, so that the mind shall be full of family etiquette. The aim of Chinese education was to teach the young how to behave; that of the Persians, how to ride, shoot, and speak the truth—a faculty not much thought of by the Hindus. The Persian

differs from the Buddhist in that the latter wishes to get rid of the world, while the former attempts to conquer the real. The Phoenicians, again, furnish a contrast to Chinese education. Their object was to wean the child from the family; whereas the Chinese endeavor to educate the young so that they will become submerged in the family. The Phoenicians aimed to create a love of adventure. Their children were educated in myths. The stories in Homer's "Odyssey" must have been derived from the tales of the Phoenician sailors, which were calculated to engender a hunger and thirst for adventure, so that the young Phoenician would gladly get on board ship and go to the ends of the world in the interests of trade. The Greeks were imbued with the new world-principle of a spiritual and beautiful individuality. They thought more of the games which they practised in the evenings on the village green than of the tasks by which they earned their bread. They learned history and geography from the second book of Homer's "Iliad." They thought not of commercial education, like the Phoenicians, but of that heroic individual who furnished a beautiful ideal. Later on, Greek education became more scientific and more reflective. The Roman concentrated his whole mind on the will. He went beyond the circle of his city, and studied to cause even foreigners to live under the same laws with himself. Freedom meant more to him than to any of the Asiatic nations. It meant the power of the individual to hold, alienate, and devise property. This was an enormous step upward in educational progress. Hitherto, property could only be held by the family. Contract is the supreme idea of the Roman. He even carries it into his religion. Thus he prays to one of his deities to help him in some extremity or to give him his desire, and he promises, in turn, to build the god a temple. The Roman wants to conquer all peoples and to make them free under the law. But the greatest educational lesson is derived from the Hebrew people. They teach the personality of the Divine apart from Nature. This Divine Person creates Nature in order that He shall have something to recognize Him. The Divine Being does not efface man simply, but is the embodiment of goodness and righteousness—the righteousness that breathes the spirit of loving kindness, holding his creatures responsible only in so far as they know the right, and returning their deeds upon them. Art education ranked first in the Greek mind, for he worshipped the beautiful. Then came science and philosophy. From the Greeks we get these elements of our educational curriculum. From the Romans we get the principle of organization. Whether or not a person is educated reflectingly into civilization, he finds himself in the great network of usages that go to make up civilization. Education is meant to give one an insight into the genesis of these things, so that he can detect an element of each in the threads of his civilization. Ninety-nine out of a hundred people in every civilized nation are automata, careful to walk in the prescribed paths, careful to follow prescribed custom. This is the result of substantial education, which, scientifically defined, is the subsumption of the individual under his species. The other

educational principle is the emancipation from this subsumption. This is subordinate, and yet, in our time, we lay more stress upon it than the other. Look at the French Revolution. What a prodigious emancipation that was. It was predicted by Rousseau; but those who read him only superficially, without first studying his genesis, will find that their minds are poisoned by his doctrine of the supremacy of nature. Comenius taught the emancipation of the individual from the printed page. Spencer says that the modern school system is all wrong, and has a tendency to get away from science and cause students to waste time over the dead languages. Emancipation has now become the important side of the educational question. But the student of advanced education must first avail himself of the wisdom of the race, and learn how not to be limited by it. He cannot progress unless he is a free man, for he must not be so much subsumed that he cannot investigate scientifically, and with safety to himself, all problems that present themselves.

LECTURE II.—*Saturday, January 14th, 1893.*

#### PROBLEMS PECULIAR TO AMERICAN EDUCATION.

There are two kinds of education. The first may be called substantial education—the education by means of the memory; the education which gives to the individual, methods and habits and the fundamentals of knowledge. It is this education which the child begins to receive from its birth. This sort of education is education by authority—that is, the individual accepts the authority of the teacher for the truth of what he is told, and does not question it or seek to obtain insight into the reason for its being so. It is this education by authority—the education of the past—that the modern or second kind of education seeks to supersede. This second kind may be called individual or scientific education; it is the education of insight as opposed to that of authority. When this kind of education is acquired, it frees the individual from the authority of the other. Under the system of education by authority when told, for instance, that the sum of three angles of a triangle are equal to two right angles, this will be blindly believed only as long as authority sanctions this belief; but when an insight into the reason for this geometrical truth is obtained, no change of authority is able to make the individual doubt. But there is this danger in the system of education by insight, if begun too early, that the individual tends to become so self-conceited with what he considers knowledge gotten by his own personal thought and research, that he drifts toward empty agnosticism with the casting overboard of all authority. It is, therefore, necessary that this excessive conceit of self which this modern scientific method of education fosters, be lessened by building on the safe foundations of what has been described as the education of authority. The problems of the reform movement centre, therefore, on the proper method of replacing this authoritative or passive method of education by education through self-activity.



There is another problem—that of the method of study. Germany advises us to teach by oral methods, by giving pieces of information and insight orally by word of mouth. But the American educators have blundered upon what may be defended as the correct method, namely, the text-book method. It was merely the outcome of an unconscious trend. The method is of course liable to very serious abuse, but the good points greatly outweigh the bad. It has the advantage of making one independent of his teacher; you can take your book wherever you please. You cannot do that with the great lecturer, neither can you question him as you can the book, nor can you select the time for hearing the great teacher talk as you can for reading the book. And it is true that nearly all the great teachers have embodied their ideas in books. The greatest danger of text-book education is verbatim, parrot-like recitation; but even then from the poorest text-book a great deal of knowledge can be gleaned. Then there is the alertness which in any large class will necessarily be engendered by an intelligent understanding and criticism of the results arrived at by different pupils in discussing a certain piece of work given in his own words. And then there is the advantage to be found in the fact that with the text-book the child can be busy by itself. Lastly, there is the problem of discipline. There should be very little corporal punishment; the milder forms of restraint should be used. The child that is brought up accustomed to the rod loses his self-respect, and may become the man who must have police surveillance. Silence, punctuality, regularity and industry are fundamental parts of a “substantial education” as much as the critical study of mathematics, literature, science and history is a part of the “education of insight.” These two kinds of education, that of authority and that of self-activity, should be made complementary.

LECTURE III.—*January 21st, 1893.*

OPPOSITION BETWEEN PESTALOZZI AND HERBART AS  
EDUCATIONAL LEADERS.

Pestalozzi laid great stress on sense-perception as the foundation of all school education. Herbart lays stress on the elaboration of sense-perception or rather upon the mental reaction against the impressions made on our senses. Thought goes back of the object to understand and explain its origin, how it became to be what it is, what purpose it is to serve. Thought sees objects in the perspective of their history. It studies causes and purposes. Thus thought is not as the disciples of Pestalozzi hold, a continued and elevated sort of sense-perception, but rather a reaction against it. It is a discovery of the subordinate place held by objects in the world; they are seen to be mere steps in a process of manifestation—the manifestation of causal energies. A new perception is received into the mind by adjusting it to our previous knowledge; we explain it in terms of the old; we classify it, identify it; reconcile what is strange and unfamiliar in it with

previous experience; we interpret the object and comprehend it; we translate the unknown into the known. This process of adjusting, explaining, classifying, identifying, reconciling, interpreting and translating, is called *apperception*. We must not only perceive, but we must apperceive; not only see and hear, but digest or assimilate what we hear and see. Herbart's "apperception" is far more important for education than Pestalozzi's "perception." At first the memory was the chief faculty cultivated in education; then Pestalozzi reformed it by making the culture of sense-perception the chief aim; now with Herbart the chief aim would be apperception or the mental digestion of what is received by perception or memory. Illustrations of the power of apperception to strengthen perception: Cuvier could reconstruct the entire skeleton from a single bone; Agassiz the entire fish from one of its scales; Winckelman the entire statue from a fragment of the face; Lyell could see its history in a pebble; Asa Gray the history of a tree by a glance. Apperception adds to the perceived object its process of becoming. Noiré has illustrated apperception by showing the two series of ideas called up by the perception of a piece of bread. First the regressive series—dough, flour, rye; and the processes—baking, kneading, grinding, threshing, harvesting, planting, &c. Each one of these has collateral series, as for example, planting has plowing, plow, oxen, yoke, furrow, harrowing, sowing seeds, covering it, etc. The second series is progressive—bread suggests its uses and functions; food, eating, digesting, organic tissue, life, nourishing strength, supply of heat, bodily labor, &c. The course of study in schools must be arranged so as to prepare the mind for quick apperception of what is studied. The Pestalozzian makes form, number, and language the elements of all knowledge. He unfortunately omits causal ideas, which are the chief factors of apperception; we build our series on causality. Accidental association satisfies only the simple-minded and empty-headed.

#### LECTURE IV.—*January 28th, 1893.*

#### ROUSSEAU AND THE RETURN TO NATURE. REVOLUTIONARY PROTEST.

The time of Louis XIV: the nobles attracted to Court and to a life of gayety, neglecting their estates and wasting the fruits of toil in riotous living; the laborers deprived of the advantage of the directive power of the nobility fail in power of production. The French Revolution is the result. Rousseau its prophet; he proclaims a return to nature. "Nature," a word of ambiguous meaning; human nature versus physical nature; human history the revelation of man's nature; it is realized in institutions and not by man as an isolated individual. Nature in time and space is under the dominion of necessity, everything constrained to be what it is by outside forces. Human nature is an ideal, and when realized it has the form of

freedom and self-determination, each man a law unto himself and each one engaged in helping every other one, for by this each one helps himself. Rousseau appealed to nature in everything. What we call civilization was to him a mere artificial form. His plea was to be natural, come back to the point where nature leaves you. Rousseau came from Switzerland to France, and at an opportune time for him; for there was a great ferment of ideas at this epoch. He was struggling along in Paris, barely securing a livelihood, when there came the offer from the Academy of Dijon of a prize for an essay on the progress of the arts and sciences, whether it has tended towards the purification of morals and manners. The negative side suggested itself more forcibly to him, as he was better fitted for it by his mode of living and morals, and by his literary style, and he found himself at once a "censor of civilization." This essay was soon followed (1752) by one on the origin of the inequality among men. The great tension produced by the artificiality of the civilization of the Court life of the time had caused men to become anxious to get back to a simplicity of living, and Chateaubriand painted the charms of the forest life of the Indians. In this reaction the meaning of civilization is ignored. Man emancipates himself from drudgery and compels nature by the forces of his intellect to feed and clothe him. The "Social Contract" followed (1762) this with an attack on the authority of the State; and in the same year his *Émile* undermined the School and the Church; and so he attacked all the social institutions one after another—the family, civil society, the Church and State. He proposed to sweep all away by summoning them before the bar of his individual judgment and condemning all. In the opening paragraph of his *Émile* he declares that everything which comes from nature is good, while everything degenerates in the hands of man. The antithesis of civilization is savagery, and Voltaire wittily exposed the fallacy of Rousseau's teaching in his letter accepting the book. He said—"never has anyone employed so much genius to make us into beasts. When one reads your book he is seized at once with a desire to go down on all fours." External authority is a perennial necessity for man in his immaturity. An appeal to nature is always a piece of jugglery with words. In mere nature we have matter and force. Everything inorganic is made by some external influence. But organic nature is the opposite of inorganic. The plant has the power of assimilation, and the animal the further powers of locomotion and feeling, or ability to select or choose its surroundings. In man this is still further increased by recollection and memory, by which the mind makes over its impressions. To do his duty properly he must look to higher things, and in ethical ideas the human becomes transcendental. The moral man acts as though the sole being in the world is humanity. No natural instinct is admitted as having validity against the moral law. If we adopt the doctrines of material nature and yield to our feelings and impulses, we remain animals. But if we take nature in the sense of our ideal, divine possibility, and realize it by education, we attain to human nature properly so-called,

which is not something given us without effort, but only the product of culture.

LECTURE V.—*February 4th, 1893.*

HERBERT SPENCER AND WHAT KNOWLEDGE IS OF  
MOST WORTH.

In Herbert Spencer, the return to nature means the study of natural science, and this becomes the great thing. But natural science is only the instrument with which we conquer nature. Everybody becomes filled with the idea of progress by it, for we see that nature as it is, existing in time and space, is conquered by inventions and made to serve man. There was never a more unscientific book made than Spencer's essay on education; for while he praises science, he does not apply it to a study of education as it is and has been. To do this he ought to study the genesis of the course of study and explain its functions. The unscientific person takes things as they are, and cares not for their origin. To study things from a scientific standpoint means to take an inventory of them—to find the process in which they are being produced; to connect them with other things; to see things in their causal process. He does not understand the system of education as it exists, because he does not know the educational value of its branches. The education he proposes for us is for the purpose of complete living; but what is Spencer's definition of this complete living? Spencer does not take education as the genesis of man's spiritual life, but merely as something useful for showing how to care for the body and perform the lower social functions as the tool of life, the instrument by which life is preserved. Now suppose the definition of complete living to be, to elevate each individual so that he can take advantage of the life and experience of his race. Then he would find complete living to involve the initiation into the civilizations of the past that furnish the elements out of which our own civilization is formed. Spencer thinks that the first business of the child is to know physiology; the next is the selection of a vocation or trade, which leads to training for citizenship; and last of all he puts relaxation and amusement, in which he includes literature and art. Now, Aristotle characterized man as the symbol-making animal. Human nature has to be expressed by symbols. The poets of a people first paint the ideal, which makes civilization possible. Literature furnishes the most essential branch of education, so far as its function is to help the child into civilization. Man sits in the theatre of the world (as Plato tells us) and sees the shadows of men and events thrown on the curtain before him. Behind him and out of his sight is the Great Leader, who is making these shadows. From them he draws his ideals, but ideals are potentialities, not realities. Self-activity, the freedom of the soul, is made possible by the institutions of society, the family, civil society, State and Church. We must not confound the mere school with these other great institutions of civilization. In the family are learned



the mother tongue, habits, and nurture. Civil society teaches him his vocation; the State, his duties as citizen; and the Church shows him his place in the divine plan of the universe. Spencer calls education the subject which involves all other subjects, and the one in which they should all culminate. But some one has better said that school education is the giving to man the possession of the instrumentalities of intelligence. By his school education he does not attain all education, but he gets the tools of thought by which to master the wisdom of the race. There are, then, three epochs of school education—elementary, secondary and higher. The first or elementary stage is the opening of the five windows of the soul. (1) Arithmetic is the foundation of our knowledge of nature, by which we measure and count all things inorganic. When its first principles are mastered the child begins to want to combine the organic with the inorganic, and then we come to another window (2), that of elementary geography. The distribution of animal and plant life is learned, and the child begins to peep into the organization of things, the growth of plants, and the formation of the continents and the earth. Thirdly, he learns to read and write, and gets a glimpse into literature. The original colloquial vocabulary learned at home, variously estimated at from 300 or 400 to 3,000 or 4,000 words, deals only with commonplace things. But the school takes this colloquial vocabulary as a key and opens up the great reservoir of literature in books, initiating him into a higher class of words, expressive of fine shades of feeling and thought. Thus, to his own vocabulary are added those of great writers, who have seen nature from a different point of view, and presented their thoughts in gems of literary style. Literature lifts up the pupil into the realms of human nature and discloses the motives which govern the actions of men. Yet Spencer puts this last in his course of study. After learning all science has to give, after learning one's trade and the care of his body, he would then, if there is leisure, permit literature and art. But literature is the greatest educator we have. It has made possible newspapers and periodicals and books, with pictures of human life and of the motives governing our actions. The fourth window of the soul is grammar, wherein we have a glimpse of the logical structure of the intellect as revealed in language. The fifth window is history (that of his own country), wherein he sees revealed the aspirations of his countrymen, his own nature, written out in colossal letters; and these five studies should make the elementary education of the student. The secondary education takes up human learning and continues it along the same lines, namely: 1, inorganic nature; 2, organic nature; 3, literature (the heart); 4, grammar and logic (the intellect); and 5, history (the will). Algebra deals with general numbers, while Arithmetic has definite numbers to operate with. Geometry and physics continue inorganic nature, while natural history continues the study already commenced in geography. Then come Greek and Latin, and here is opened up a great field of study into the embryology of our civilization. In the dead languages we have the three great threads running through the his-



tory of human progress. The Greek, with its literature and aesthetic art and its philosophy, showing the higher forms of human freedom in contrast with the Egyptian, which showed only the struggle for freedom and never the man separated from the animal and the inorganic world. The Roman, with the continual gaze upon the will of man, seeks the true forms of contracts and treaties and corporations, whereby one man may combine with another, and it essays the conquering of men and reducing them to obedience to civil law, not only external conquest but internal conquest as well. The Hebrew thread is the religious one, which we recognize in the celebration of worship one day each week and in the various holy days. We acknowledge this the most essential thread of our civilization. So, with the secondary education we begin to get the embryology of our forms of life. The higher or collegiate education is the comparative step of education. Each branch is studied in the light of all the others. Natural science and sociology are investigated; logic and mental philosophy; ethics and rhetoric; as well as the philosophy of history and of literature, and the comparative sciences, which furnish the light for the whole method of higher education. The first, or elementary education, then, is but superficial, a mere inventory; the secondary insists on some reflection on what has been learned; and the third, or higher education, is the unity and comparison of all that has been learned, so that each is explained by the whole. Give the child possession of the embryology of civilization, and his insight into the evolution of civilization is insured. Educators have adopted the course of study as it exists, led by an unconscious or blind impulse. Herbert Spencer should have investigated and discovered its purpose, which is a far deeper one than he has thought out when he advocates its overthrow for the sake of knowledge that leads to direct self-preservation.







VII-VIII

THE CONDITION OF THE WESTERN FARMER





JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE  
HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History.—*Freeman*

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ELEVENTH SERIES

VII-VIII

THE CONDITION OF THE WESTERN FARMER

AS ILLUSTRATED BY

THE ECONOMIC HISTORY OF A  
NEBRASKA TOWNSHIP

BY

ARTHUR F. BENTLEY, A. B.

*Johns Hopkins University*

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# CONTENTS.

I. Introduction . . . . .	7
II. Colonization and History:	
Colonization of Nebraska . . . . .	11
Settlement of Hall County . . . . .	20
Economic History of Harrison Township:	
Description of the Township . . . . .	24
Settlement     "     " . . . . .	25
Conditions of Colonization . . . . .	27
Financial Condition of Settlers in First Years . . . . .	32
Changes in Ownership by Years,—Table I. . . . .	33
Purchases and Sales of Different Classes of Lands, —Table II. . . . .	37
Causes of Settlers leaving,—Table III. . . . .	39
Land Values . . . . .	43
Renting . . . . .	44
Credit . . . . .	44
Taxation . . . . .	46
Markets, Prices, and Freight Rates . . . . .	48
III. Present Economic Condition of the Farmers of Harrison Township:	
A. The Land and its Ownership . . . . .	53
a. The Lands considered . . . . .	53
b. Quality of the Lands . . . . .	54
c. Ownership of the Lands . . . . .	55
B. Condition of Resident Owners . . . . .	58
a. Chattel Mortgages . . . . .	59
b. Real Estate Mortgages . . . . .	60
1. General Statement . . . . .	61
2. Debt on "Government," "Railroad" and "School" Lands . . . . .	62
3. Debt of Residents and Non-residents . . . . .	63
4. Debt and Acquisition of Lands . . . . .	66
5. Debt and Quality of Lands . . . . .	70
c. Improvements on Land . . . . .	72
IV. Conclusion:	
Summary of Present Status of Farmer . . . . .	76
Discussion of Economic Influences seen at work in Harrison Township . . . . .	78
V. Appendices:	
A. Land Laws and Technical Expressions . . . . .	88
B. Comparison of the Figures shown in this Paper with those of Census of 1890 . . . . .	91





# THE CONDITION OF THE WESTERN FARMER

AS ILLUSTRATED BY THE

## ECONOMIC HISTORY OF A NEBRASKA TOWNSHIP.

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### I.—INTRODUCTION.

The study on which this paper is based was suggested by the desire of the writer to obtain some actual knowledge of the true economic condition of the farmers in the western states. The farmers' movement, culminating in its attempt to change the policy of the government in many important particulars, had for its *raison d'être* the depressed financial condition of the agricultural classes. Against this position, the other political parties urged that the financial depression affected all classes alike, and that in no way did farmers have greater difficulty in attaining prosperity than persons in other lines of activity. Realizing the worthlessness of the isolated examples cited for proof, as well by one side as by the other, the author undertook the present investigation.

Two ways lie open to one desiring to find an answer to such a question as that set before us. Either many and varied statistics for the whole region under consideration may be collected and examined, or a study in miniature may be made of some little district which can fairly lay claim to being typical of the whole region. For the first method, the present United States census furnishes masses of figures, the use of which is of great value. Nevertheless there are certain grave difficulties connected with this method, not the least of which is the continual danger of wide-reaching misinterpretation, growing out of some little fault or error at the start. The study of a small district, on the other hand, while

avoiding these greater dangers, is only of value if it can be shown that the district chosen is really representative, so that what is true of its inhabitants can fairly be predicated in general of the inhabitants of all that region about which knowledge is sought. It is this last form of study which has been adopted in this monograph, with the hope that it may, if nothing more, supplement the facts shown by other and more pretentious investigations.

The local causes at the basis of the farmers' movement differ greatly between the South and the West, as between other parts of the country, so that in any study these various sections would need to be kept distinct; and it is to the West alone, and to that part of the West whose main agricultural development has taken place within the last twenty-five or thirty years, that any conclusions drawn in this paper may be applied. The district chosen for consideration is Harrison township, in Hall county, Nebraska. Harrison is not only a political subdivision, but also a congressional survey township, and so contains just thirty-six square miles. This paper relates almost entirely to that small area, and to the conditions which have directly affected it; only enough preliminary matter is inserted to show clearly the relations of the district with the state in which it lies and the group of states of which it forms a part.

In weighing the reasons which are now to be given as indicative of the representative character of the district selected, it must be kept in mind that often the "average case" is not the real representative one. The true "type" is sometimes very different from the bare mathematical average. For example, in such a study as the present one, the crucial point is not alone such a question as whether the average amount of mortgages owed by residents of the town is the same as the average owed in the state as a whole. To discern a truly typical district, we must go much further than that and take into consideration the many influencing conditions: in short, we must strike a careful balance between these conditions.

The following reasons may be instanced among those which have led to the selection of Harrison township for study, and which give weight to the claim that it is truly typical of large portions of our western agricultural states. The township was settled during the time when the immigration to Nebraska was at its height. It does not lie in the older settled regions along the Missouri river, nor is it in the dry and very recently settled lands in the western part of the state. Its lands are of an average fertility, certainly not better than the average of good Nebraska uplands. The district has never been subject to any serious detrimental influences not common to, or paralleled in, large stretches of territory. Another point which makes it a fair choice for study is that it is entirely agricultural. There are no towns within its limits to disturb in any way the market price of its farms, by giving them a value for other than agricultural purposes. Nevertheless the market facilities of the township are good, inasmuch as a railway station can be found within from one to four miles of each of its corners, so that no portion of the town is more than six or seven miles distant from a shipping point. No railroads pass through the town or nearer it than the stations referred to. Again, it will be found that the figures obtained agree, if rightly interpreted, with such analogous figures for the whole state as the census of 1890 has as yet made known.<sup>1</sup> Another confirmatory circumstance is the marked way in which the yearly changes in the number of resident owners, as shown in Table I, can be explained by references to the agricultural conditions prevailing in the various years.

In comparison with a statistical investigation on a large scale, this form of study has advantage in that we get from it a better knowledge of the real life of the farmer. Where the figures are on a very large scale, all sense of the actual economic life of the individual is lost, and that sense, it may well seem, is the true object of inquiry and the one from

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<sup>1</sup> See Appendix B.

which the most benefit can be derived. Again, the detailed study gives us the best opportunity to investigate the local causes of changes in financial condition. The causes which would tend to produce depression among agriculturalists fall in general into two classes: those due to the general economic condition of society, and those more directly connected with the local conditions of agriculture. The first class of causes is entirely without the scope of our inquiries, but in seeking the facts of the present status of the farmers, we obtain naturally, and in the same process, knowledge of the local conditions and of their effects during the years which the study covers.

The materials for the study were gathered during the summer of 1892. For the historical part of the paper, the various collections of materials for Nebraska history were used, as were also the documents, speeches, and manuscripts in the possession of the Nebraska State Historical Society. As a basis for the study of the township proper, the records of the United States Land Office at Grand Island, Nebraska, of the Union Pacific Railway Land Office at Omaha, and of the office of the County Clerk of Hall county, were exploited. The personal information as to former residents was collected from old settlers in the township, mainly by personal interviews at their homes.

## II.—COLONIZATION AND HISTORY.

### COLONIZATION OF NEBRASKA.

The beginnings of the occupation of Nebraska by white men are, as would naturally be expected, to be found, not among agriculturalists, but among traders and trappers. As early as 1810 the American Fur Company had established a station on the Missouri river, in what is now known as Sarpy county; and for many years it had sole possession of the trade of vast stretches of territory. The United States government guarded with great jealousy the rights of the native Indian tribes,—Sioux, Poncas, Otoes, Missouris, and Omahas—and until 1854, when the lands were formally thrown open to settlers, no white man was allowed to reside on Nebraska territory without a special permit from the Secretary of War. Traces are evident of one or two such permits during 1852, and by the close of 1853 some seven or eight cabins, occupied with the consent of the government, could have been found at various points along the shore of the Missouri.

As it became evident that the territory of Nebraska would soon be organized and its lands thrown open to settlement, speculators and adventurers began to gather in the western part of Iowa, more especially at Council Bluffs and other river cities. In the first months of 1854 a few of the more impatient ventured across the river and laid out for themselves squatters' claims, but they rarely remained longer than the day or two required to blaze the boundaries of their chosen pieces of land. During March, 1854, treaties were concluded with the Omahas and Otoes by which these tribes gave up their rights to vast tracts of land; and at length, on the 24th of June, the President, after authorization by the act of Congress creating the territories of Nebraska and Kansas, formally declared the removal of all restrictions as to residence.



And now followed a great rush by the waiting emigrants for the best claims all along the river, although the land had not yet been formally opened for pre-emptions. In order to protect the squatter rights, and later the pre-emption rights, clubs, or claim associations were founded in the various river counties, and "club law," dealing out summary punishment to claim-jumpers and others of their ilk, became the order of the day.<sup>1</sup> Before the close of 1854 several towns had been projected, among them Omaha, Florence, Plattsmouth, and Nebraska City, the opening of the latter having been celebrated "on the spot," July 4th, 1854.

The air was full of speculation, and the early activities of the settlers were directed mainly to the advancement of their civic interests, or in other words, to the sale of corner lots. At first agriculture was very little thought of, the new-comers looking upon themselves for the most part as transients, and Nebraska as their abiding place only until the happy day when they would have finished the accumulation of small fortunes, for enjoyment in their eastern homes. In fact, there seems to have been a pretty general belief that the new territory was very ill adapted for farming, and that whatever else it might become, it would at least never be a great agricultural state. Even after the lapse of five or six years farming was a matter of very minor importance, as can be seen from the figures of the census of 1860. In this year the population of Nebraska was 28,841, but only 3982 of these were reported as engaged in farming; and even of these latter the greater number were only nominally farmers, so that, on the authority of Senator Paddock,<sup>2</sup> the area of regularly honestly cultivated land probably did not at the outside exceed more than 500,000 acres for the whole territory.<sup>3</sup> But with the rap-

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<sup>1</sup> See Transactions Nebraska State Historical Society, Vol. II, here and there. Also Jesse Macy's *Institutional Beginnings in a Western State*, Johns Hopkins University Studies, Vol. II., No. 7.

<sup>2</sup> Address before the State Board of Agriculture, Lincoln, Neb., Sept. 26, 1878.

<sup>3</sup> The census of 1860, however, reported 118,789 improved acres and 512,425 unimproved acres in farms; but its figures are undoubtedly too large.

idly increasing security of person and property, and the perception of the real value and fertility of the soil, this state of affairs quickly changed; speculators gave way to settlers, and the border line of cultivation advanced rapidly toward the west. This progress and its conditions will now briefly be considered.

As we have noticed, the first emigrants to Nebraska had no better title to their chosen lands than squatters' rights, and they had to combine and often make use of force to secure peaceful possession. As this was prior to the time of the homestead acts,<sup>1</sup> the emigrants had to rely mainly on the pre-emption acts for acquiring lands, and it was not until 1859 that a general public sale was ordered. The progress of settlement was greatly retarded by the number of speculative claims that had been staked out as soon as entrance to the territory had become a possibility; for a new-comer would soon find himself forced to go eight or ten miles back from the river, or pay some speculator an exorbitant price for the opportunity to settle on the better situated piece of land which the latter had in his clutches. As a result a large amount of land remained unimproved in the midst of the newly opened farms, and permanent damage was done the country.

During the early part of the fifties there could be found here and there along the overland trail to the coast, so-called "ranches" kept by pioneers, typical border characters, whose greatest pleasures were incident to their remoteness from civilized life. At these ranches, the wearied wagoner could rest himself and renew his store of provisions if he so desired, or could perhaps have necessary repairing done to his wagons. But as these ranchmen had no thought of permanent residence—the very nature of their occupation, in fact, limiting their activity to the period prior to the introduction of railways,—and as they paid practically no attention to farming, it would not be proper, in summing up the advance of settle-

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<sup>1</sup> See Appendix A.

ments from the point of view of agriculture, to include them as early residents; so, when the term "first settler" of any county is used, it will mean the first actual farmer who entered upon permanent possession.

In probably all the counties along the Missouri, except those on the northern boundary of the state, quite a number of inhabitants could have been found by the close of the year 1854; but owing to the character of the people and the conditions of life in a frontier state, almost no farming can have been attempted before 1856 or 1857. Meanwhile the settlers began to push backward from the river, though the advance was quite slow. Indian scares were frequent, though the real danger was comparatively slight. Moreover, an idea that had gained wide currency was that beyond the Salt Creek, a stream some fifty miles west of the Missouri, the land was utterly uninhabitable; that in fact the little stream marked the beginning of the Great American Desert. But the experience of an adventurer here and there proving this view fallacious, settlements extended, so that we are safe in saying that, with one possible exception, every county within eighty miles of the Missouri had by 1860 a few, at least, actual settlers living within its borders.

The early settlers followed naturally the course of the little rivers in eastern Nebraska, partly for the sake of the easy water supply, partly for the shelter of the timber along the banks, and partly also on account of the easy means of communication thus offered. So also when settlers ventured further into the interior of the state, the first claims were placed upon the banks of the streams, while the intervening country was passed over. Almost the whole state of Nebraska is an alternation of valleys and uplands, and almost invariably the latter were entered upon only after the former had been pretty thoroughly occupied. The same thing is to be observed with reference to the Platte river, for at a very early day settlements had followed it upwards for quite a distance. It is to be noticed that they followed the river in preference to the old emigrant trail across the country. The

route of early overland emigrants had not lain along the river, owing to the great curves which the course of the Platte follows, but had run some distance to the south in a more nearly straight line, and had only begun to follow the Platte at Fort Kearney, about a hundred and seventy-five miles from the Missouri. In fact this trail seems to have had no influence on the course of settlement at all, for, in illustration, one of the counties through which it passed before reaching Fort Kearney seems to have received absolutely no settlers between the time of the early ranches and the comparatively late date 1866, though this county itself lay immediately south of the Platte. Of the counties along the Platte, by 1856 there were settlements in Sarpy, Cass, Douglas, Saunders, Dodge, Colfax, and Platte counties, reaching out over 100 miles, and the following year Nance, Merrick, and Hall were invaded. In 1858 Buffalo county, too, had settlers. This brings us to the neighborhood of Fort Kearney, but beyond this point even the advantages of the neighboring river did not attract settlers for a number of years, owing mainly to the idea, of which we have seen illustrations before, that the limit of good agricultural land had been reached and that further west dependence could only be put upon stock-raising. The greatly augmented danger from Indians to the west of Fort Kearney had also its effect in hindering the advance of population. In fact, it was only after the building of the Union Pacific Railroad that any inhabitants but the ranchmen along the overland trail could be found in all that stretch of hundreds of miles between the immediate neighborhood of Fort Kearney and the Rocky Mountains; and not until 1872 was the first farming, even in the western part of Buffalo county, attempted.

And here a word may be said about the settlements in the western part of the state, and that subject be then permanently dropped; for nothing can be gained from it that will be of interest in our further investigations. With the exception of the comparatively rare river valleys, the western third of the state is sandy, and is in parts composed to a large extent

of sand-hills; and so it has been much better fitted for grazing purposes than for agriculture. Consequently agricultural settlements, the only kind with which we are concerned, date back in many cases only five or six years. The sparse populations have had great difficulty in withstanding the partial failures of crops to which they have repeatedly been subjected; and their term of occupation has been so short, and the real nature of their lands is yet so imperfectly known, that a discussion of them would teach us very little of value.

To return now with more of detail to the region of the eastern Platte, we notice that nearly all the settlements along its banks, with the exception of those near the Missouri river, were on the northern side.<sup>1</sup> The reason for this is to be found in the difference of the lay of the land on the two banks. The bluffs on the south border directly on the river for long distances, and in consequence, the first settler, with the whole land before him to choose from, turned to the north where the rich bottom lands stretch back from five to twenty miles before reaching the bluffs. To these bottom lands the settlements were very largely confined for many years, and in very many cases it was not until several years after the completion of the Union Pacific Railroad that the back lands in these counties were entered upon at all. It has been shown before that much the same conditions affected the settlement of the bottom lands of the small streams in the whole eastern part of the state.

During the decade 1860 to 1870 settlements in the eastern counties became much thicker and there was a gradual pushing westward all over the state. In 1870 the rate of settlements seems to have been greatly accelerated again, several new counties being entered upon, and the back lands of the Platte River counties being to a considerable extent taken. For several years this rate was kept up and then settlers were forced, in order to get any land at all, to enter

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<sup>1</sup> Of the counties previously enumerated, Douglas, Sarpy, Dodge, Colfax, Platte, Nance, Merrick, part of Hall, and Buffalo, lay to the north.



the more sandy lands in the western part of the state, which have already briefly been spoken of.

In order to get a better idea of the way in which these settlements progressed, an outline of the development in one or two counties may be given.

Seward county lies immediately west of Lancaster county, in which is situated the capital of the state, and is some sixty miles west of the Missouri. The first arrivals were in 1859, when some disappointed gold-seekers on their way back to the "states" determined to stop in Nebraska and try their luck there. They established ranches, but did not do farming at this time. The next comers established ranches in '62, and in '63 a few more appear. The next year immigration started out very briskly; but soon a great Indian scare drove most of the settlers out of the county to safer parts on the Missouri, and at the election in the fall only seven votes were polled. Prior to 1867 the most of the settlements had been made in the southern part of the county, but now the location of the state capital at Lincoln, only a few miles away, gave a great impulse to immigration, and by the close of the spring of '68 a large proportion of the government land in the county had been taken. In 1870 the school census for Seward county showed 782 children of school age, while the total number of inhabitants was 2953, and there were some 24,000 acres of land under cultivation. The county may then be called settled, and it proceeded in its growth with the various ups and downs incident to agriculture. Between 1865 and 1875 the assessed value of property increased from \$29,000 odd to \$1,597,000; and by 1879 it is said that one-third of the acreage was actually under cultivation, while the population had increased to over 11,000.

Taking up now Adams county, which lies in the third tier of counties west of Seward, we find a very different course. Though it is now one of the richest and most populous counties in the state, before the spring of 1870 Adams county had not even had a ranch of any description within its borders. Two facts may be mentioned which indicate the causes

of the failure to colonize at an earlier date. First, the lands lay at some little distance south of the Platte river, and so were out of the direct course of the earliest settlements; and second, the region was in too great proximity to the favorite hunting grounds of the Sioux Indians. In March of 1870 two typical plainsmen took claims which they held for about three years, but then gave them up to get further away from the settlements, which were becoming too thick to suit them. The same year saw still other settlers, and in the spring of '71 a party of Englishmen came in and took claims in the county. By the fall of this year there was a voting population of twenty-nine. From this time on the rate of settlement was so rapid that by the census of 1880 the county had a population of 10,235.

The life of the early settlers of Nebraska, though full of hardships, had its pleasant aspects, and probably was much easier than that of the settlers of many of the states. For one thing, the pioneer stage was everywhere very short, and the discomforts attendant thereon proportionately reduced. This may be attributed, from a local point of view, to two things: first, to the absence of forest lands, this doing away with the necessity of the clearing process, so that the lands as they lay could be brought into cultivation with a comparatively small outlay of time and money; and second, to the uniform fertility of the lands, this allowing settlers' farms to lie contiguous for many miles, thus giving the benefits of easy mutual assistance. Of course the existence of a great mass of emigrants ready to flow into whatever region offers them the greatest advantages is a necessary preliminary to such a rapid settlement of any particular state. Another influence that may be mentioned, of very great importance for Nebraska, was the railroad building in the state, especially between 1866 and 1870 or '72.

The early settlers along the Missouri had the advantage of being near their base of supplies, for Iowa was already quite well settled, and, as we have seen, owing to the intensely speculative activity of the time, merchants and towns had

actually preceded farmers in the possession of the land. But those whose claims were further inland not only felt the disadvantage of their location in the difficulty of laying in their supplies and selling their produce, but also in the retarding of the speed with which they could bring their lands under cultivation. For instance, the farmer at a distance from the river was greatly delayed by the always recurring necessity of having his plow resharpened, a thing which, owing to his situation, he could not easily and quickly accomplish by turning it over to a mechanic; he was compelled to stop his plowing entirely while he awkwardly performed the work, or else to travel a long distance in order to get it perhaps very little better done.

The price of clothing was during the early days very high, and the settler had often to content himself with garments made of skins. Overcoats, when the settlers were so fortunate as to possess them, were more likely than not such as had been originally made for the United States army but had been condemned and rejected by the government. These, shipped out to the prairies, brought very high figures. The question of food is of more interest. Corn bread and "rye hominy" formed the staples, eked out often by wild fruits. Melons grew in great abundance and were a source of refreshment and often of great profit to the pioneer. Game was frequently obtainable—antelope, the wild goose, the prairie chicken and the quail. After the first year the settler's pig or two and his few chickens would have so increased that he could depend on them to quite an extent for animal food. Money was very scarce at first, but later comers usually brought with them a little coin, for which they would purchase from the older settlers farm produce for use while getting under way, thus putting the money in circulation, and giving the first comers the opportunity to procure needed articles which previously lack of coin had put beyond their reach.

Whatever the early settler had in the way of provisions he was liable to be called on at any time to share with some

still more needy home-seeker who happened to pass his way. To such, lodging and a meal could not be refused, though to give them required an appreciable sacrifice, and rarely was it that any payment was tendered in return. The pioneer was hotel-keeper and distributor of alms to all the world that came his way. This, needless to say, was often a serious drain.

The amount of land granted to the railroad companies in Nebraska before July 1st, 1880, was 6,409,376 acres, and this fact made considerable difference in the settlements after 1864 and '66, the time when the first grants went into effect. For, although the railroads offered their lands at low rates and on long time, the settler, if he was qualified, naturally preferred to enter government land which cost him nothing, and this led to a less thick but probably more widely extended population than would have otherwise been the case. In fact there is, in many cases, even yet a marked difference between the number and the condition of settlers on the two classes of lands.<sup>1</sup>

#### SETTLEMENT OF HALL COUNTY.

Hall county, within the limits of which most of the material for this paper has been gathered, is one of those counties lying along the Platte river, which, as we have seen, were in course of settlement at a comparatively early date. The Union Pacific Railroad runs through it, and the eastern border of the county is some one hundred and fifty miles from the Missouri river by rail, or perhaps twenty-five miles less than that by a direct line. Somewhere near its southern corner the several channels of the Platte enter the county, running through it in a northeasterly direction, and passing out of the county near the center of its eastern boundary line. The distance between the north and south channels of the river varies in this county from two and a half to four and a half miles. Along the south bank of the river are bluffs, and from them a rich table-land stretches off to the south.

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<sup>1</sup> See Part III.

To the north, nearly parallel with the river, and separating the valley of the Platte from that of the Loup, another chain of low and rather sandy hills runs through the county, and the level country between these hills and the bluffs to the south of the river may properly be called the valley of the Platte, though a mile or two north of its north channel there is a slight rise that divides what are known as the "first bottom" and "second bottom" lands.

It was in early July, 1857, that the first settlers reached the county, the party consisting of thirty-seven persons. They came under the auspices of a company controlled by the Washington banking house of Chubbs Bros. and Barrows, their object being not so much agriculture as the founding of a town, to which the company thought—so much were they under the influence of the speculative fever of the time—that they could secure the removal of the capital of the United States in the near future.<sup>1</sup> Unfortunately for the hopes of the projectors of the enterprise, the banking house went down under the pressure of the panic of the following year, and the national capital was permitted to remain undisturbed at Washington. The immigrants, immediately upon arrival, staked out claims and put up several log-houses. Only about fifty acres of land were broken the first year, when the approach of winter compelled the cessation of work. The winter was passed under very great trials, owing to the distance from supplies and the impassableness of the roads, so that at times even actual starvation was feared. In the spring came fresh supplies, and with them renewed ability to labor; and the work of preparing the soil for cultivation progressed rapidly. In July of 1858 there arrived a new band of some twenty persons. Thus far the settlers were almost entirely Germans, only about five Americans having cast their lot with the colony. The land on which they settled lay on

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<sup>1</sup> At this time the United States survey had not been extended beyond Columbus, nor were there any settlements west of that point.



the "first bottom" of the Platte. During the first year or so the struggle to get established was very severe, and had it not been for the supplies of provisions forwarded by the original town company, the attempt at colonization might have been a failure. But in the fall of 1859 the colonists obtained a contract for supplying the government at Fort Kearney, some forty miles distant, with two thousand bushels of corn at \$2 a bushel, and this helped the colony in great measure to become self-supporting. Besides this, many of the settlers were able, in the intervals of their activity, to obtain employment at the fort, thus adding to their incomes. About this time, trade with the emigrants to the gold mines in Colorado and other western territories became very profitable for the settlers; a good cabbage-head would bring as high as fifty cents, and a watermelon a dollar. In addition the emigrants would often have lame cattle and young calves which they were very glad to sell to the settlers at low prices; and as such stock could very easily be brought back into good condition, the profit in the transaction was great.

During 1858 a number of Mormon farms had been opened along Wood river at a distance of ten or twelve miles from the original settlement; but these unwelcome residents soon concluded to move further west and join the remainder of their brethren in Utah. The part of the county south of the Platte received its first settlers in 1860, when a family by the name of Martin started a cattle-ranch there, but the greater danger<sup>2</sup> from the Indians kept settlers away and greatly retarded the development of this region. In the northern part of the county new-comers slowly but steadily appeared during the following years and settled down to farming. In 1860 there were 116 residents in the county. But colonization soon received quite a serious setback from the withdrawal of almost all the United States troops in

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<sup>1</sup> See p. 21 above.

<sup>2</sup> At this time the Sioux claimed all the western part of Nebraska south of the Platte as their hunting grounds and were very vigilant in avenging all intrusion, whether by other redskins or by whites.

the territory on account of the necessities of the Civil War. This left the colonists almost entirely unprotected, and as a result the Indians became very much bolder and threatened to drive all the whites out of the country. In fact, almost all the settlers in the Platte valley fled beyond the Missouri; but at two or three points, one of which was the settlement in question, fortifications were erected and so firm a stand was maintained that no heavy damage was suffered. In Hall county there were several massacres at unprotected farm-houses, but on the whole comparatively little harm was done. When the Civil War was over the work of settlement went on again apace. The building of the Union Pacific Railroad, which was finished through this part of the country in 1866, made immigration much easier, and only with its completion did the first settlers venture off the river bottoms. But the building of the railroad was by no means an unmixed blessing for the cause of colonization, for the contractors ruthlessly destroyed all the natural timber along the Platte and other streams; and this timber, little enough at the start, was very sorely missed, and has only been replaced by careful labor for many years in protecting the regrowth and in planting anew. By 1870, Hall county's population had increased to 1057, of whom about two-thirds were male; and 5870 acres had been brought under cultivation. Up to this time all the immigrants without exception had located their claims near the river on the "first bottom" lands. The first settler to locate on the "second bottom" lands did so in the fall of 1870, and the following year a number of claims were located in that part of the county. The oldest settlers looked with anything but hopeful eyes on these attempts to farm the uplands. In fact, most felt sure that agriculture on such lands was an impossibility, and they predicted that the attempts could result in nothing but failure. The writer is credibly informed by one of the oldest settlers that year after year the weather was so dry that on the "second bottom" lands the grass was, by the middle of July, in a fit condition for prairie fires, nor could it after that time

be used for pasturage except on the very banks of the small streams. But this condition has been materially changed by the settlement of the country and the increase of timber. How little justification in fact these early predictions had will be seen with the progress of this paper.

All the land thus far occupied had been "government land," and, indeed, before 1870 there had been only three sales of "railroad land" in the county. During 1872, however, practically all the available "government land" in the county was entered, and though after that time here and there an entry on an abandoned piece of land was made, nevertheless one who wished thereafter to settle in Hall county had to depend either on "railroad land" or on purchasing from older settlers. Since then the county has continuously increased in population and has had its fair share of prosperity. It has suffered from the grasshoppers, felt the impetus of years of good crops and the discouragement of years of crop failure, and has come out, it must be owned, with its fair share of mortgages. The population was, according to the census of 1890, 16,513, of whom 8454 were residents of city or villages, the remaining 8059 being residents of farms. With this we can dismiss the consideration of the county as such; for all that is important in the economic history of the farming classes after this time will be brought out as fully as possible in the following more detailed account treating of Harrison township.

#### ECONOMIC HISTORY OF HARRISON TOWNSHIP.

The boundaries of Harrison Township (or Precinct, as it was called before the county adopted township organization) coincide exactly with those of the congressional township known as township eleven, range eleven, west of the sixth principal meridian, and thus it contains very nearly thirty-six

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<sup>1</sup> For this and other terms used in a rather technical sense throughout this paper, as well as for a brief account of the ways in which a settler could acquire title to the different classes of lands we are to consider, see Appendix A.

square miles. Its southeast corner is, as nearly as may be, the geographical center of Hall county. The main channel of the Platte river lies, at its nearest point, about five miles distant, while the northwestern corner of the township is some thirteen or fourteen miles distant from the river. The lands are what we have designated in this paper as "second bottom" lands. The surface is very slightly undulating, so slightly indeed that one who was not a close observer might call it an almost perfect level. Through the northwestern quarter of the town runs a small stream, Prairie Creek, and there is one other streamlet which contains running water only at certain times of the year. The fertility of the land is, on the whole, of a very high grade; this matter, however, will receive more careful attention hereafter.

The first settlement in Hall county, on that part of the "second bottom" lands which is drained by Prairie Creek, had been made in the year 1871, but it was not until 1872 that a claim of any sort was taken within the limits of Harrison township. By the end of that year, however, entries of some kind had been made on all of the government land therein. The first entry was in the latter part of March, when two pre-emptions were filed on quarter sections in the southeastern part of the township. In April nine entries were made, most of them homesteads, near the two claims taken in March; two, however, were pre-emptions, placed in the western part of the town by ranchers who hoped, while controlling under their own claims but a few hundred acres, to be able to have the use of many thousands of acres of unclaimed land around them for grazing their cattle. Needless to say, the rapidity of settlement surprised these men so greatly that they gave up their claims in disgust and moved farther away. In May there were six entries; in June, eleven; in July, six; in August, twelve; in September, nineteen; in October, three; and in November, two. This includes, it must be remembered, only the first entry on each tract of ground, the total number of such entries being seventy; and as the government land originally available for entry consisted of sixty-four

quarter-sections, the average number of acres taken on each entry was 146.3.

Of these original entries, fourteen were pre-emptions, forty-seven were homesteads, and nine were soldiers' homestead declaratory statements, intended to mature in due time into homesteads proper,—all but four, in fact, doing so. It is proper, then, to say that there were fourteen pre-emptions as against fifty-six homesteads; that is, four-fifths of all entries were homesteads. This shows, at least, the relative estimation in which the two ways of taking land were held. It might at first sight seem that the taking of a homestead indicated that the settler came with the intention of residing permanently, but did not have sufficient means to purchase the land he desired, even at the very low prices demanded by the government; thus it would follow that four-fifths of the entries were made by settlers who were lacking the means necessary for pre-emption. But such a conclusion must be looked at with caution, for in considering the individual cases we find that here and there a well-to-do "speculator"<sup>1</sup> took a homestead, while on the contrary a pre-emption was occasionally taken by one whose possessions were as nearly nil as they well could be, and whose hopes for paying up on a pre-emption must have been based entirely on some wild notion of fabulous crops in the first years. Of the fourteen pre-emptions mentioned above, only one was paid up, that one being one of the two taken by the ranchmen whom we have spoken of before. Three men relinquished their pre-emptions to take homesteads on the same land, and four relinquished in order to take timber-claims on the same land; the remaining four gave up their holdings in the township altogether and

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<sup>1</sup> The term "speculator," as used here and at other places in this paper, always refers to residents. It includes both those who took government land and resided thereon just long enough to "prove up," and those who, coming later and purchasing land from the railroad company or from other settlers, had a speculation as their prime motive, but who really made their living out of the farms for one or more years, while waiting for an opportunity to sell at a profit.



moved away. This relinquishment of pre-emptions occurred almost entirely in the fall of '74, when the time given by law for "proving up" had expired, and the holders found themselves unable to pay the amounts required to complete their title under the pre-emption laws. It must be remembered that this land being within the Union Pacific ten-mile limit, pre-emptors were obliged to pay the government the double minimum price, \$2.50 per acre.

Facts given in Appendix A will show how it sometimes happened that several entries were made upon the same tract of land. To illustrate the number sometimes so made, we may take the case of the northwest quarter of section eighteen in this township, on which ten entries were made, the first in '72 and the last in '82.

The last entry made on government land in the township was in February, 1884. In all 159 entries had been made, of which ninety-seven were homesteads, fourteen soldiers' homestead declaratory statements, twenty-five pre-emptions, and twenty-three timber claims.

We have noticed above the number of entries made on land in the various months. By referring to these figures it will be evident that the number of entries in August and September, 1872, formed nearly half of the total number in that year. Now, many of those who made entries at this time did not actually enter into possession of the land until the following spring, and, evidently, those who took possession in the fall could do little more than get some kind of habitation in readiness, and a very little, if any, breaking done, before winter set in and put a stop to work. So their first year saw, practically, no farming undertaken.

Those not familiar with the subject sometimes think of the conditions of colonization under our present land laws as having been of such a character that the empty-handed settler could, through the mediation of the government, soon become the possessor of a well-equipped farm. But a very little reflection shows us that the gift of the soil is by no means all that is needed as the foundation for a farm. To convert

the raw prairie into a habitable and income-producing farm is not an easy task, and quite a little capital is needed to do it satisfactorily. Prof. Rodney Welch makes the following estimate of the necessary expenses:<sup>1</sup>

Registering, etc. . . . .	\$50.00
Horses and implements . . . .	500.00
Furniture, small stock, etc. . . .	200.00
House (sod), stables and seed . . .	150.00
Breaking forty acres sod . . . .	100.00
	<u>\$1000.00</u>

To this must be added the cost of sustenance for self and family during the year, or perhaps two years, which intervened before regular crops could be raised. The country being new, little work could be found by which the income could be helped out. It would be perfectly safe to say that the ordinary immigrant had very much less means than the amount mentioned, and was much hindered in his work by his lack of sufficient capital. Those who came out to their claims with practically no capital were usually forced to leave before much time had passed, though here and there a prosperous farmer is to be found who started out with not even a team with which to plow his land.

There were several things which tended to lighten the burdens of the settlers. One of these which helped them in many cases was their previous service in the army, for a very large proportion of the settlers had taken part in the Civil War. The amount of time spent in the army is deducted from the five years' residence on the land which is otherwise required of the "homesteader" before he can acquire title to his "claim." Besides this advantage, a pension gave to many the wherewithal on which to live until they could raise their first good crops. Much trouble and some expense was saved the settlers of Harrison township by the fact that they were located so near the government land office. The fact, too, that they were within a few miles' distance of lands that had been under cultivation for ten or fifteen years had a very

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<sup>1</sup> The Forum, Vol. VIII., No. 5.

important influence; for the new settler could, in consequence, find near at hand the grain and other supplies which he needed during his first year's residence until he could raise crops for himself; and as the cost of transportation of such commodities was avoided, the amount which he would have to expend for support in these years was much less than would otherwise have been the case.

Another thing of very great importance, in many cases, was the simultaneous settlement of former neighbors or acquaintances in one locality, for they could render many mutual services which the lone settler was precluded, to a great extent, from receiving. Especially was this true when several brothers or a father and his sons came together and took "claims" side by side; and where the father had well-grown minor sons whose continuous services he could require, his possibility for prosperity was still more enhanced.

There were certain hardships to which the first settlers on the prairies were peculiarly liable, one of the most dreaded being the prairie fires, which, during some seasons of the year, frequently threatened certain destruction of house and home as well as crops. Another thing which caused much suffering and loss in the early times—one that has repeatedly been brought to the writer's notice—was the fact of residence at long distance from a physician. The disadvantage in this was twofold: first, the inability to get medical attendance promptly, and secondly, the great cost of it when obtained; a heavy bill was speedily incurred and bore a discouragingly large proportion to the scanty cash income during the first years of settlement.

But by all means the greatest hindrance during the early years, and one that affected all settlers alike, was the grasshopper pest. Though the harm done by these insects will be considered in detail when we come to examine the financial history of the settlers year by year, yet the grasshoppers were such an important economic factor in Nebraska that a brief sketch of their history there seems advisable. The *calopterni spruti*, or "mountain locusts," were first seen in small num-

bers in 1862; again in '64 and '65, and in '66 and '68 they were seen, but did little harm. In '69 in certain sections, as in Hall county, they destroyed the whole crop. The habit of the insects is to soar high in the air in immense swarms, and from time to time to pounce down on a field, often stripping it bare of all vegetation before continuing their flight. The grain most commonly devoured was corn. After '69 the pests were not seen in central Nebraska till '73, and though in this year many families suffered very severe losses, yet the average crop for the whole state was fair, and prices of grain were not greatly raised. Hall county was fortunate enough to escape them almost entirely at this time. In the last days of July and the first of August, '74, they succeeded in devouring almost all the growing corn, and those settlers on the frontier whose "sod corn" had been their sole crop, and those farther east who had concentrated almost all their labor on that one crop, were sometimes reduced to a condition of absolute want. The years '75 and '76 saw the return of the "hoppers," as the settlers familiarly called them, but in neither year was the destruction so great as before.

It will be well to discuss in this place the standard of living of the early settler and its relation to his possibility of financial progress. It is true the early settler possessed very little property, but on the other hand his needs were few. A sod house gave him shelter, and after the first year his farm furnished him most of the food he required. The standard of living was practically the same for all the settlers, so that with the purchase of a little clothing and a few groceries, one could live comfortably, as the times went, on a very small outlay of cash. True, it was a hard life to live, but as a better was well-nigh impossible, and as there was always bright hope of improvement in the future, the settler was content. Rivalry being so largely lacking, the forces which would tend to raise the standard of living were very weak, and all the in-

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<sup>1</sup>Sod crops are raised on prairie which has only just been broken. They are usually very light and easily destroyed by a bad season.

centives were for the farmer to invest upon his farm any surplus he might have, instead of consuming it in a less directly productive manner. The great difficulty of getting credit at the time furthered such investment, for capital was sorely needed upon the farms, and practically the only way for the farmer to put it there was by carefully avoiding all expenditures for living that were not absolutely necessary, and so saving the necessary amount, or what part of it he could. This form of investment, in turn, gave a certain degree of prosperity; and it may well be that the man who could maintain his footing under the circumstances which we have described, would not be able to prevent loss at the present day, when the conditions are so different; for a much higher standard of living must to-day be maintained, and it is now comparatively easy to fall into the habit of borrowing until all hope of retrieving one's fortunes is gone. This difference may to some extent account for the fact, which we shall see later, that fewer of the farmers were ruined in the early years by what we may call the prevalent agricultural conditions, than have, in recent years, failed in a similar manner.

The matters that we have mentioned present some of the salient features of the economic conditions that surrounded the first settlers. Bearing these facts in mind, let us now proceed to consider with more or less detail the financial condition of the farmers during the first few years after the settlement of the township was begun; and from that we can pass to a more hasty sketch of the changes from year to year until the present time.

The number who took claims or bought railroad land during 1872, and who followed up the taking of their claims by actual residence, was sixty-one; but probably many of these were only nominally residents until the following year. In 1873 the number of residents increased to seventy-three, thirteen new men coming in and one man leaving. Of the newcomers nine entered government land; three contracted for the purchase of railroad land, and one purchased his land of a non-resident holder of railroad contracts. The



assessment rolls for '73 show no one in this township taxed as the owner of land, but twenty-two persons were assessed as the owners of personal property. During this year none but "sod crops" were raised, and, fortunately, the grasshoppers, so bad throughout the state as a whole, did scarcely any damage to the crops in Harrison township, so that the farmers were permitted to gather in whatever grain the newly opened soil could furnish. The one man who left during this year is said to have been a gambler and speculator who had come to the country with some vague idea of making a fortune in the immediate future, but who soon tired of even his nominal residence on a farm and sought more agreeable fields.

Though the grasshoppers did considerable damage in the state as a whole during 1873, as we have seen, yet their ravages were not so great as to cause very high prices for grain in the spring of the following year; nor was immigration to the part of the state which we are considering materially hindered thereby. In fact, in 1874 the number of arrivals in the township was larger than in 1873. Seventeen new settlers came, of whom nine entered upon government land, five on railroad land, and three purchased of older settlers. In this year we find taxes levied for the first time on real property; while thirty-eight persons were taxed on personal property. Owing to the grasshoppers and severe hot winds, the crops this year were very much damaged, the corn being wholly lost, and the small grains yielding less than one-half of an average crop. In consequence many persons were left entirely without means of support except such as they could obtain from the relief associations.

During 1874, five men gave up their holdings in Harrison township. Two of these were speculators; one lost his farm through legal complications consequent on mortgaging his personal property too often; a fourth, having no capital, had made no improvements on the land on which he was nominally resident, and had gained his support by working for neighbors, and, although he left as poor as he well could be,

he cannot be said to have failed in farming. The fifth had completed his title to a homestead before selling, having been able to do this by taking advantage of the special privileges in time, etc., that the law gave to former soldiers. He had poor health and lacked in energy; the bad crops quickly discouraged him, so that he lost confidence in the country and its resources. Having an opportunity to do so, he willingly sold his farm and returned to his native state of Michigan to work in the more healthful pinerias. Thus far, therefore, we find only one man whose departure can in any sense be said to have been caused, or even accelerated, by unfavorable conditions of soil or climate.

During 1875 prices of grain went higher than ever, owing to the crop failure of the preceding year, corn being sold at over \$1 a bushel; and this affected the new settler in that in most cases he was compelled to buy grain for his own use. The bad years seem finally to have had their effect on immigration, for in 1875 no new settlers entered the township, while five either sold out or abandoned their claims and left the country. More than this, if we can place any dependence on the tax lists, there were this year but twenty-two persons in the township owning taxable personal property; although the number of persons to whom real estate was assessed had increased from one to thirteen.

Without considering the following years in such detail, it can be seen by reference to Table I. in what way the number of resident farmers owning their land<sup>1</sup> has changed.

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<sup>1</sup> For the purpose of this paper all claimants or contractors will be treated as owners; and in Table I. the acquisition of claims under the land laws, or the making of a contract for the purchase of railroad lands, is included with the actual purchases under the head of "purchasing," while the alienation of the settlers' interests, either by abandonment or relinquishment of claims, or by assignment or cancellation of railroad contracts, is included under the head of "selling." It must be remembered that especially during the past few years the number of rented farms has constantly increased, and that the table does not show the total number of cultivated farms, but includes only those which have been cultivated by resident owners. It is perhaps needless to add that the figures refer to heads of families, not to individuals, in residence.

The first two columns show the changes in ownership occurring each year among resident owners; the third column, the number at the close of each year who had ever been resident owners and still owned the land. After deducting the number shown in the fourth column as moving away without selling, we have left in the fifth column the number of owners, at the end of each year, who were actually occupying their own farms.<sup>1</sup>

## I.—RESIDENT OWNERS.

	Resident during part or all of term of ownership.			Moved out of Township (still hold title).	Total owners in actual residence.
	Number Purchasing.	Number Selling.	Total Owning.		
1872	61	0	61		61
3	13	1	73		73
4	17	5	85		85
5	0	5	80	3	77
6	2	8	74		71
7	5	7	72	1	68
8	9	4	77	1	72
9	20	10	87		82
80	9	5	91	1	85
1	1	3	89		83
2	7	6	90	1	83
3	7	1	96		89
4	15	9	102		95
5	4	3	103		96
6	3	5	101		94
7	4	5	100		93
8	4	3	101	1	93
8	3	7	97		89
90	3	4	96	1	87
1	1	9	88	1	78
2	2	6	84		74
	190	106	84	10	74

<sup>1</sup> In this connection, the following table, indicating the average length of time during which *resident* owners have retained title to the land which they occupied, may be of interest:

## DURATION OF OWNERSHIP BY RESIDENTS.

	On Government Land.	On Railroad Land.	Purchasers from other than Railroad Companies.	Average for all Residents.
Men who have sold	7.4 years	7.5 years	6.0 years	7.0 years
Men who still own	17.8 years	14.6 years	7.6 years	12.0 years

We observe that the number of such owners increased rapidly until '74, at which time there were more owners in residence than there are now; that it then decreased almost as rapidly, owing to the successive crop failures, until '77. With '78 began a new rise in the number of such inhabitants, which progressed steadily, though with a slight break in '81, until '85, when the number of resident owners reached its highest point. For three years longer the number remained almost stationary, but by '89 it had begun to fall again, until now there are hardly more owners in residence than in '73.

We are able to trace a very close connection between the number of resident owners in the various years and the climatic and crop conditions.<sup>1</sup> The number of such owners increased on the wave of immigration until 1875, but a complete cessation of settlement was caused in that year by the grasshopper pest of the preceding seasons, and, in fact, the same cause was at the basis of the continued decrease in the number of resident owners, which lasted through '77. The crop of 1876, wherever it was not destroyed by grasshoppers, and the crop of '77 throughout the whole state were exceptionally good; and with the good crops came a renewed immigration to the state. Moreover, by 1878 the chances to take government land were pretty thoroughly exhausted, except in those parts of the state in

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<sup>1</sup> The connection is so close as to do much to justify the claim that Harrison township is really typical of large sections of country. It will be at once seen that unfavorable general conditions, such as grasshoppers or drouth, have within a year or so after their occurrence almost completely stopped immigration, and that they also drive settlers out of the township; that unfavorable local conditions, such as hail, have not hindered immigration—for they are looked on rather as accidents than as properties of the country—but that they have often caused the failure and departure of former resident owners. We may add that unfavorable conditions, whether local or general, cause emigration from the township in two ways: first, by completely discouraging the farmer with his prospects, in which case the full effect may not be seen for several years; or, second, by inflicting on some already heavily burdened settler such a severe loss of crops that further struggle for prosperity becomes at once impossible.



which the sandy soil or the roughness of the land was a drawback, or in which it seemed that without irrigation success in agriculture would be very doubtful. This indicates another reason why the number of settlers in the township should so greatly increase at this time, the immigrants often turning back from the frontier and preferring to purchase railroad lands in tried parts of the state near the means of transportation, rather than to take from the government free land the value of which was very uncertain. We must here remember the fact, indicated in another place, that the settler who took government land really needed almost the same amount of capital in order to bring his "claim" well under cultivation as was required by the purchaser of railroad land on long time. In 1878 the crops throughout the state were very good, but hail caused almost total destruction of grain over at least half of Harrison township; and here we can observe the effect of unfavorable *local* conditions; for the number of newcomers in '79 was not at all affected by the losses of the previous year, being in fact greater than in any other year since 1872; but the number of removals was affected, being in 1879 much greater than the average. The temporary cessation of immigration during 1881 must be laid to the severe drouth of 1880 and the consequent crop failure. During the next five or six years crops were heavy and prices were good, and in connection with this we notice the steady increase in the number of resident owners. The decrease in the number of such owners in late years must partly be attributed to the removal of prosperous farmers and partly to the removal of those who had met with failure—just in what proportion will better be seen at a later stage of this paper when we have more data before our consideration.

Table II.<sup>1</sup> contains the number of purchases or entries, and of sales of lands in the township during the various

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<sup>1</sup> In this table, for the sake of simplicity, purchasers of school lands are included under the third subhead.



years, and is to a certain extent supplementary to the preceding table. It gives, however, in addition, data for discovering the causes which led to the taking of land in different ways at different times. Separate columns show the number of those settlers of each year who are still resident owners, and those who have since sold and moved away.

II.—*Purchases and entries made each year, with number of such purchases and claims since sold or relinquished, and number still retained by original purchaser or claimant.*

Year of purchase or entry.	On Government Land.			On Railroad Land.			Purchased of other than Railroad Company.		
	No. of entries each year.	Have since sold or relinquish'd	Still hold.	No. of purchas'rs each year.	Have since sold.	Still hold.	No. of purchas'rs each year.	Have since sold.	Still hold.
1872	57	40	17	4	1	3			
3	9	8	1	3	2	1	1	1	
4	9	7	2	5	4	1	3	2	1
5									
6	1	1		1	1				
7	3	2	1	1	1		1	1	
8	2	1	1	7	3	4			
9	2	1	1	15	7	8	3	3	
80				3		3	6	3	3
1	1		1						
2							7	3	4
3							7	4	3
4	2		2				13	4	9
5							4	2	2
6							3	2	1
7							4	2	2
8							4		4
9							3		3
90							3		3
1							1		1
2							2		2
	86	60	26	39	19	20	65	27	38

Now, remembering the fact that those listed as entering government lands in the later years—say from '75 to '85—had, to quite an extent, the character of purchasers, it is evident that the taking of government land, as such, was almost

exclusively the characteristic of the first three years of settlement. This will be still clearer when we consider the fact that several of those who appear as taking railroad land during these years, also owned government land which adjoined their new tracts, though just outside the limits of the township. The others who bought railroad land during these first three years did so, we may presume, either on account of the exceptionally good quality of the particular piece of land chosen, or for the purpose of being near friends, or because it seemed better to the individual settler to have the advantages of residence in a settlement a few years old, than to go out upon the still newer frontier. The largest number of settlements on railroad land occurred in '78 and '79, immediately after the effects of a renewed period of good crops had begun to be felt; between a half and two-thirds of all the purchases of such lands being made in these two years. During these years several homesteads and pre-emption entries were made on odd-numbered sections, it being thought that the railroad title thereto had been forfeited; but soon the United States Supreme Court decided that the claim of the railroad company was still good, and these entries of course came to nought. Since that time the great majority of settlers have been obliged to buy their lands of former individual owners.

Let us now briefly consider the various causes for selling or surrendering claims. From Table III. can be seen in the first column the number of owners who left owing to causes which can be classed together as "Prevalent agricultural conditions." All who left the country after unsuccessful attempts at farming, and whose troubles cannot be traced to some definite cause which would have affected them in like manner if occurring in one of the older states, are put in this column. We have already seen that by 1874 there had been only one man to be so classified. In the other columns are put those who left owing, as nearly as can be ascertained, to the causes enumerated. It has been a matter of the greatest difficulty to ascertain with exactness what were the reasons in

each case which caused the individuals to leave, and often there is a plurality of causes, preventing easy classification. But each case has been considered carefully and the results are approximately correct.

### III.—CAUSES FOR SELLING OR SURRENDERING CLAIMS.

	I.—Owing to prevalent agricultural conditions.	II.—Sales by those who had bought in hopes of an advance.	III.—Failure to improve or cultivate the land.	IV.—Involved in other troubles.	V.—Died.	VI.—To move to better farms.	VII.—To move to cheaper farms.	VIII.—To move to towns or villages.	Total.
1872									
3		1							1
4	1	2	1	1					5
5			2	1	2				5
6	1	4	1	1		1			8
7	1	2	1	1		2			7
8				1	1	1		1	4
9			3			3			10
80		1	1	1	1	1		4	5
1		1		1					3
2	2	1		1		1			6
3							1		1
4	1	2		1		2	2	1	9
5				1		2			3
6		2		1				2	5
7				1			1	3	5
8	2					1			3
9				1	1	1	2	2	7
90	2	1				1			4
1	3			2	2			2	9
2	1	2		1				2	6
	14	19	9	16	7	16	7	18	106

Column I.—In regard to those in the first column, it will be noticed first that the great majority of the cases occur in comparatively late years. This is something of a surprise, as one would naturally expect to find the conditions of the early settlement less favorable for permanence of residence than those prevailing later.<sup>1</sup> One thing which

<sup>1</sup> The only advantage which the settlers of Harrison township had over the settlers in most other parts of the state consisted in their nearness to the older settled district on the river bottom, the influence of which has already been discussed.

may have had its influence on this fact is the low standard of living which prevailed during the early years and which we have discussed above.

The first man here listed leaving in '74 would probably have stayed had his health been better and his energy consequently greater. The next one, in '76, was a hard worker, though with very small capital; after repeated crop failures he became so discouraged that he gave up his land and moved away. The case occurring the following year is almost exactly similar, except that a general tendency toward shiftlessness plays quite a large part in the failure to raise good crops. Of those leaving in '82, one had really left his claim a few years before under circumstances similar to the second case named above, but did not sell until this year; the other had come in '79 with a small capital of, say \$500, and had begun to open up a piece of railroad land, but finding that he could not meet his payments, he moved back to his old home to resume work at his trade and allowed his contracts to be canceled. The case of '84 was similar to the first one of '82. Of the two who thus lost their farms in '88, one was an original settler on government land, who kept steadily running behind till he was forced to sell his farm to pay his debts; the other had settled on railroad land in '78, and what with poor management and bad crops got into such a financial condition that he was forced to sell and had practically nothing left. The six cases remaining in this column, who left during '90, '91 and '92, were, with one exception, all purchasers from other individuals. No doubt the serious drouth of 1890 had much to do with accelerating their ruin. One of these had too little capital to enable him to pay up for his farm, and so had to give it up; he is now a renter in the same precinct; the second and third were at start moderately well off, but ran through everything and are now renters; the fourth was still better off at the start, but got into debt to everybody and so lost his land; the fifth, after twelve years' residence on and cultivation of an eighty-acre farm, found himself considerably behind-

hand and sold out to move farther west, where free government land was to be had; the sixth and last started with a comparatively large capital, say \$4000, and in six years had gotten rid of it all.

We note, then, that the settlers leaving in this general condition of impoverishment in the early years did so mainly because their continual loss of crops had thoroughly discouraged them with the prospects of the country, if, indeed, it had not made their further attempts at farming absolutely impossible; that there then follow several who had to give up because of unwise attempts to bring under cultivation railroad or other land with too small capital; and that lastly we have a class of men, mainly later purchasers, who fail and lose their farms owing to economic conditions, the cause of which is not apparent on the surface.

Column II.—This column includes all speculators, as the term is described on page 26, note. We see that about half of the men whose prime purpose in farm residence was speculative, and who have since sold, had sold within the first five years. Of those who entered government land with this object in early years, most sold their land quickly; two or three have only recently sold, while a few still own. The remainder of those listed as selling in recent years belong to the class of comparatively late purchasers, as previously described.

Column III.—Those who did little or nothing on their land. These men came with the intention of farming, but owing to lack of capital, or attracted by opportunities to make good wages at other trades or occupations, they left after short residences. It is seen that all such cases occurred in the early years of settlement.

Column IV.—Those who left owing to complications other than those arising from their attempts at farming. Among such troubles may be mentioned becoming entangled in civil lawsuits; becoming surety for and having to pay the debts of another; speculating in cattle; committing crimes or misdemeanors, etc. Such cases occurred with



great regularity, and it is evident were not dependent, to any extent, upon the characteristics of the special year or period.

Column V.—Here are included all those who died while resident owners of land within the township.

Column VI.—Those who, after a more or less successful<sup>1</sup> career in Harrison, moved to better farms, or farms that suited them better. Most of these went to other parts of the county or to other counties in Nebraska where they could get larger tracts of land, or could be near relatives or friends; often the wife's desire to be near her relatives was the cause of moving. A few moved back to their old homes further east, mainly Ohio or Iowa.

Column VII.—Those who moved to cheaper farms. Part of them left because they recognized that their original capital was insufficient to initiate and carry on the farming of the land which they had; part of them because of failing fortunes which they hoped to retrieve by a fresh start somewhere else. Some of these went further west and took homesteads from the government.

Column VIII.—Those who have removed to towns or villages. Under this head are included the few whose capital was such that they could live comfortably on the income to be derived from its judicious investment; also those who have entered upon business as small merchants or saloon-keepers; or who have preferred the opportunities offered them by residence in towns to pursue trades with which they were conversant, where they could at the same time find pleasanter social life and better education for their children. In all cases they are men who can be ranked as having been fairly successful farmers. As would be expected, they are almost all found toward the close of the period we are now considering.

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<sup>1</sup> This term must be understood as used in comparison with the careers of the other farmers of the township. Just what the measure of success was will be discussed in the Concluding Remarks.

What we learn from the facts in these latter columns simply confirms our former ideas of the condition prevailing in the various years. We need only add to the summary given above the remark that farming in this township seems to have been at its best in the middle part of the period that has elapsed since colonization began. After the drawbacks attending the first settlement were past, the prosperity of the settlers was at its highest point, and in the later years, while the older settlers have in the main increased their wealth, but at a much slower rate than before, yet those who have come in as purchasers from the older settlers have, almost without exception, fallen behind rather than gained in their net wealth.

#### LAND VALUES.

When Harrison township was first settled, land in limited quantities could be purchased from the government by actual settlers for \$2.50 an acre. At the same time the Union Pacific Railroad was asking \$4 an acre for its lands. As the government land was all so quickly taken, and as sales were made by the railroad company at its own prices, we can consider the actual value of the lands from 1872 to 1874 to have been about \$4 an acre. During the two or three years following 1874 there was absolutely no sale for farming land, but after immigration began again in 1878, the railroad price may be considered as indicative of the actual marketable value of the lands. In '78 and '79, \$5 and \$6 per acre were the current prices. From 1880 to 1884 land of the average quality brought from \$6 to \$8 per acre. These were the prices, of course, for unimproved land sold on long time and easy terms. A settler who wished to sell for cash would get very much less, unless the improvements represented a substantial sum. With the exception of two or three years prior to 1891 or '92, land has, since 1880, steadily increased in value, though usually it has been of rather slow sale, because owners have habitually asked prices for it above what purchasers were willing to pay. At the present time, land with good

average improvements will sell with comparative readiness for about \$25 an acre, though owners often claim that they would refuse any offer of less than \$30 to \$35 an acre.

#### RENTING OF FARMING LANDS.

Until quite recently the usual rent of farming land has been one-third of the produce, and there has always been plenty of land to be obtained upon such terms. But within the last two or three years the demand for farms has very greatly increased, and there has been a corresponding increase in the rent. Owners are beginning to ask for their farms either two-fifths of the produce, or a cash rent of from \$1.50 to \$2.25 for each acre of plow-land. In 1892 about four-fifths of the rented land was rented on shares, and the remainder for cash. In the same year, of the farms rented, about two-thirds were rented to tenants who resided on the lands; while the remaining one-third was rented to neighbors.

#### CREDIT.

There are in general four ways in which the farmers have made use of the capital of others. These are, first, by obtaining credit with the retail dealers with whom they trade; second, by borrowing with real estate security; third, by borrowing with chattel security (and this includes most of the debt on agricultural implements, for the part of the price of such implements which is not paid in cash is usually secured by mortgage on the machinery itself); and fourth, by borrowing with unsecured promissory note or with personal security. The first method is relatively unimportant, as the total amount of credit so obtained has necessarily been quite small. Let us then pass to the consideration of the three other forms.

When the township was settled, money could only be borrowed on chattel security, and was very difficult to obtain even at the high rates then offered and demanded; for capitalists were few, and the condition of the borrower was such as to warrant only the smallest line of credit. Moreover, the insecurity of the loan made the interest required very high.

But in time real estate became of importance as security. The agent of the first company that loaned money upon real estate in this part of Nebraska appeared about 1875, and twelve per cent was the rate of interest demanded, with a bonus of from ten per cent to twenty-five per cent for commission. The rates have gradually lowered; in 1880 they were eight per cent interest and two per cent commission; then seven and two; later, seven and one; and now the current rate is six and one, while a certain large life insurance company will make all good loans of over \$2000 that are desired at six per cent without commission. But for a long time the chattel mortgage held its own and was the form of security regularly in use for borrowing money; even the most well-to-do did not hesitate to allow such mortgages to appear on record against them. This has changed to a certain extent, however, and real estate or personal security is coming to be given in preference by the more prosperous farmers. Chattel mortgages are still frequently given by cattle-feeders as security for their extra purchases of stock for winter feeding, but even in this line of business they are less common than formerly. The amount of money now borrowed on personal security, or simply on individual note, is not large, for only the more prosperous can so borrow, and they are just those who want to and who do borrow the least. I was allowed to examine the books of a bank that does perhaps the greater part of the business of this township, and found only an insignificant amount of this last variety of paper.

Those few settlers who were able to borrow of a father or of other relatives in the eastern states had a very great advantage, especially in the first years of residence, as in trying times they could count on aid without having to pay the exorbitant interest charged by local lenders. Many were the occasions for borrowing in the early days; but most of the debt was incurred either to provide sustenance during a year of lost crops, or to make improvements, or to settle an unpaid balance of purchase money.

It will be necessary later to discuss in detail the use of credit in its relation to agricultural prosperity; but two general incentives to mortgaging may be here mentioned, the influence of which has been felt throughout a great part of the history of the township, but especially during the earlier days. The first incentive grew out of the appreciation in the price of land, the farmer being led into realizing this in advance by means of mortgaging; as fast as he could increase his loan he would do so, and use the sum obtained sometimes to make good deficiencies and losses, or for current expenditure, and sometimes for investment, whether legitimate or speculative, upon his farm. The second incentive lay in the fact of the relatively large returns of crop in proportion to the cost of the land. In the early days the farmer's profits were very high in proportion to the amount of capital employed, whenever his crops were at all good; and this often led him to purchase and cultivate more land than he was able to manage; then if bad crops, which he had not counted on, came, he would become hopelessly involved in debt. It is true the farmer may often have suffered from excessive interest and grasping creditors; but it was less frequently the avarice of the lender that got him into trouble than the fact that he was too sanguine and too prone to believe that he could safely go in debt, on the assumption that crops and prices in the future would equal those in the present.

#### TAXATION.

The direct taxes which have been levied on the farmers of the township since the first year of settlement consist of state taxes, county taxes, and school taxes.<sup>1</sup> Since 1884, at which time the present township organization went into effect, there have been, in addition, township taxes. Table IV. shows the rate in mills of the taxes levied for state and county purposes in each year since 1872, the county tax being classified according to its expenditure. The table gives also the town-

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<sup>1</sup> During the first five years, that is from 1872 to 1876, there was also a road tax of \$4 for every quarter section of land. This tax is not included in the tables which are to follow.



ship taxes and the assessed valuation in the township since 1884. No table can be given for the rate of levy of school taxes, because the school district boundaries are constantly changing and have no reference to the township boundaries. However, from the amount of such tax collected within the township, we can say that the rate averages about ten mills. Putting all these taxes together, we find the average rate per annum to be about thirty-three mills on the dollar of assessed valuation.

## IV.—RATES OF TAXATION.

	State Tax. mills.	County Tax, mills.						Township Tax, mills.				Township assess'm't
		General Fund.	Roads, Bridges and Buildings.	Railroads	Sinking Funds.	For all other Purposes.	Total County.	General Fund.	Road.	Bridge.	Total.	
1872	5.750	6.	3.		1.5		10.50					
3	6.250	6.	7.50		1.5		15.					
4	6.250	6.	5.25	6.	1.		18.25					
5	7.350	6.	.50			3.75	10.25					
6	7.350	6.	3.		3.	.25	12.25					
7	6.125	8.	2.		4.5	.50	15.					
8	6.375	6.	.50		5.	.50	12.					
9	5.750	5.5	3.50		8.5	.50	18.					
80	4.000	6.5	6.	2.5	2.5		17.50					
1	5.750	8.5	3.50		5.		17.					
2	5.000	8.	4.		3.	2.	17.					
3	6.875	5.	4.		3.		12.					
4	7.875	7.	3.		3.		13.	1.5	2.	2.5	6.	\$64,349
5	7.850	8.	2.		4.		14.	2.	2.	2.	6.	85,818
6	7.975	8.	2.		4.	1.	15.	2.	2.	2.	6.	101,065
7	8.125	8.6	2.		4.	.40	15.	1.	1.	1.	3.	87,723
8	8.000	8.4	4.	2.2		.40	15.	1.	2.	1.	4.	91,111
9	7.018	8.2	2.70			.50	11.40	1.5	2.	.5	4.	97,548
90	6.893	9.	3.90	1.5		2.10	16.50	1.5	2.	.5	4.	94,945
1	6.875	8.3	3.30	2.5		.90	15.	1.5	2.	.5	4.	95,195
2	7.125	8.5	3.			.50	12.	2.	2.	1.	5.	97,752

The assessments, however, are very low. During the first few years after the settlement of the township, we find real estate assessed usually at \$2.50 per acre. In 1880 the assessed valuation was \$2.87 for unimproved land and \$3.41 for improved land. Since then the average for improved land in the township has been about \$3.75 per acre, the assess-

ment having only once gone above \$4. The valuation of the unimproved land has changed little for many years, the range being from \$2.74 to \$3.08 per acre. To indicate the valuation of personal property, the following rates, copied from the assessor's book for 1892, will be of interest: Fat cattle, \$5 to \$7; steers, \$4; thoroughbred bulls, \$10; heifers, cows and young steers, \$2 to \$4; calves and yearling heifers and fat sheep, \$1; lambs, 50 cents; hogs, per 100 lbs., 75 cents; horses and mules and all other personal property at one-fourth the cash value. It may be added, that though there seems to be no particular method of determining what is and what is not improved land, yet on the whole, in late years, all quarter-quarter sections which do not contain buildings have been listed as unimproved, no matter whether they were under regular cultivation or not. Since 1886, less than one-fifth of the land on the average has been assessed as improved, though during the three years '84, '85 and '86, from one-half to two-thirds of the land was so assessed. In 1892 the average quarter section was assessed for about \$500, or an eighth of its real value, and probably the proportion of the value of personal property assessed was not more than that; so that, the tax rate being about thirty-six mills, the real tax levied was less than half a cent on the dollar of true valuation.

#### MARKETS, PRICES, AND FREIGHT RATES.

During the years 1872 and '73 all the agricultural produce of Hall county could be readily sold to the new settlers, at prices so high as to make shipments to outside markets unprofitable. During the three following years it was necessary to bring grain into the country rather than ship it out, on account of the successive crop failures caused by grasshoppers and drouth; but with '77 a period of fairly good crops began, and during most of the time from then until '84 the markets in the western part of Nebraska, and in the Black Hills and other near regions in which settlement was just beginning, gave better prices for corn and oats than could be realized by shipping them to eastern grain centers. Between '85 and '87

the activity in railroad building in states to the west gave rise to good markets for corn, and quite high prices prevailed. From 1877 to 1883, Chicago was by far the best market for wheat, but since 1883 the local mills have competed with it and absorbed a good share of the crop. Since 1887 it has been necessary to ship most of the grain to eastern markets, or sometimes to the South, and this is especially the case when crops are heavy. While therefore during a great part of the period we are considering the prices obtained for grain have been somewhat better than could be obtained by shipments to the eastern markets, yet since 1877 the price of wheat has been to a great extent affected by the net price to be obtained by shipping to Chicago, and since 1887 the Chicago prices have had a by no means inconsiderable effect on the selling price of all grains. It is unfortunately impossible

V.—AVERAGE CHICAGO PRICES OF CORN, WHEAT,  
AND OATS.<sup>1</sup>

	Corn "No. 2," cts. per bushel.	Wheat "No. 2" Spring. cts. per bushel.	Oats "No. 2," cts. per bushel.
72	34.3	111.5	26.1
3	32.3	102.9	25.6
4	59.3	97.6	41.7
5	54.8	88.9	41.
6	40.	92.6	28.3
7	42.7	121.5	29.5
8	36.9	95.2	22.3
9	35.6	99.6	26.8
80	37.7	105.7	29.8
1	50.	114.8	37.8
2	67.5	116.6	43.6
3	53.8	101.7	34.5
4	51.6	83.	29.1
5	43.	83.9	29.
6	37.	76.6	27.6
7	39.5	75.6	26.
8	46.8	90.	28.6
9	34.	85.5	22.2
90	39.3	89.2	30.9
1	58.4	96.6	39.1

<sup>1</sup> For fuller tables see "Statistical Information Pertaining to Chicago Markets." Howard, Bartels & Co., Chicago.

to obtain records showing the prices which grains have brought in the local markets, but Table V. gives the average prices for corn and wheat and oats in Chicago for each year since 1872.

In attempting to estimate, on the basis of the preceding table of prices, the profits which the farmer has been able to make on his grain, we should next have to take into account the cost of raising the grain and the cost of transporting it to market; and though we shall be unable to discuss this matter in detail here, a few facts bearing on the subject may not be out of place.

The cost of raising corn in Nebraska has been investigated by the Nebraska Bureau of Labor and Industrial Statistics, and in its report for 1891-92 the estimates of some six or seven hundred farmers are given, which make the average cost of the production of corn per acre to be \$6.40, and therefore, figuring forty bushels of corn to the acre, the cost per bushel would be 16 cents. The method of this estimate is, however, faulty, in that the cost of husking and cribbing is estimated by the acre and not by the bushel, as it should be, and thus the size of the crop is entangled from the start with the cost per acre. Leaving out these items of husking and cribbing, the average cost per acre shown by the report is \$4.90. From this latter figure, the cost per bushel should be estimated according to the size of the crop, and then an addition made to cover cost of husking and cribbing. Moreover, the figures given in the report do not include cost of hauling to market, which is for the farmers of Harrison township from one to two cents a bushel. The cost to the farmers we are considering of corn delivered by them at the market-place cannot be estimated under from eighteen to twenty cents per bushel for a fairly good year, that is when the crop averages from thirty-five to forty bushels to the acre.

The report of the Bureau indicates that the cost of raising corn in the eastern counties is greater than in the western counties of the state. The reasons suggested for this are that the item of interest on the investment in the land in the

newer counties is less than in the older ones, as is also the amount of cultivating which it is found necessary to give the land. Analogy with this conclusion would suggest that the cost of raising corn in Harrison was less in earlier days than now, and therefore, though the freight rates were much higher then than at present, yet the price which the farmer had to realize for his corn in order to make a profit from it was less than now.

As to freight rates on grain, Table VI. will show all the changes since 1880-83 in the rates between Grand Island and Omaha, and between Grand Island and Chicago. A comparison made between the figures in the table itself will show how large the local rates have been as compared with through rates.<sup>1</sup> A comparison<sup>2</sup> of the rates here given with the Chicago prices of grain as seen in Table V. will show how much of the value of the product is absorbed in finding a market for it. If further deduction is made from the Chicago price for the commissions of two middlemen, we will begin to appreciate the position and feelings of the farmer who said that when he bought his farm he thought

#### VI.—FREIGHT RATES (IN CTS. PER CWT.).

Grand Island to Omaha (150 miles).    Grand Island to Chicago (650 miles).

Date effective.	Corn.	Wheat	Oats.	Date effective.	Corn.	Wheat	Oats.
Jan. 1, '83 . .	18	19½	18	Jan. 7, '80 . .	32	45	32
Apr. 16, '83 . .	15	16½	15	Sept. 15, '82 . .	38	43	38
Jan. 10, '84 . .	18	19½	18	Apr. 5, '87 . .	34	39	34
Mch. 1, '84 . .	17	19½	17	Nov. 1, '87 . .	25	30	25
Aug. 25, '84 . .	20	20	20	Mch. 21, '90 . .	22½	30	25
Apr. 5, '87 . .	10	16	10	Oct. 22, '90 . .	22	26	22
Nov. 1, '87 . .	10	12	10	Jan. 15, '91 . .	23	23	25
Mch. 7, '88 . .	9½	11½	9½				
Dec. 15, '88 . .	10	12	10				

<sup>1</sup> It must, however, be remembered that the through rates are not strictly to be found by adding the local Nebraska rates to the Omaha-Chicago rates, there being usually some deduction for through traffic.

<sup>2</sup> In making comparisons with the preceding table, figure wheat at 60 lbs. per bushel, oats at 32 lbs., and corn (shelled) at 56 lbs.



he was really going to own the land, but that he soon discovered that he only held it on an uncertain tenure from the railroad companies. It will be noticed that the proportion of the market price which is paid for freight is much higher for corn and oats than for wheat, and in the former grains often runs over one-third of the total price.

### III.—PRESENT ECONOMIC CONDITION OF THE FARMERS OF HARRISON TOWNSHIP.

#### A. THE LAND AND ITS OWNERSHIP.

##### *a. The Lands Considered.*

We are now to take up the more direct study of the present economic condition of the farmers in Harrison township. In this connection there must be borne in mind what has already been said, in recounting the reasons for selecting this township for the field of our investigations, in regard to the character of its lands. Heretofore mention has frequently been made of Harrison township in a way that would imply that detailed study would be confined solely to the land in it; and for most of the matters studied, such a statement would be true. But in many of the tables it has been found necessary to include also certain additional acres bordering on the township. We have to consider, in addition to all the lands in the township, all those pieces of land bordering on it which form component parts of farms, the remainder of which lies in Harrison township. These lands could not be omitted because it would not be just to consider a farmer's position with reference to only part of the farm which he had under cultivation, and, moreover, because very commonly mortgages are extant covering both land in and land out of the township, and to properly distribute the burden between the different parts of a farm so mortgaged would hardly be possible. But these added pieces of land are considered only with reference to present owners; and so only in such tables as those containing mortgage statistics and those concerning the size of farms. The former owners, if any, of the added tracts are in no case considered. Table VII. gives the

total acreage of government, railroad, and school lands in regard to which our investigations will be made.<sup>1</sup>

#### VII.—ACREAGE OF VARIOUS CLASSES OF LANDS.

	In Harrison township proper.	In added lands.	Total.
Government land.	10,240	520	10,760
Railroad land.	11,520	320	11,840
School land.	1,280	160	1,440
	23,040	1,000	24,040

#### *b. The Quality of the Lands.*

Through the kindness of a mortgage company doing business in Hall county, the writer has been enabled to obtain the ratings which this company makes of the quality of the lands in Harrison township, ratings which we may feel confident are as nearly correct as it is possible to get them. The ratings are on the scale of 10, which number represents the very best land obtainable in the county, and they grade from that point down. Land represented by 7 would be of a very poor quality. Taking the average grade for each quarter section, we find in Harrison township eighty-two quarters ranked as 10; twenty-nine ranked as 9 or 9+; twenty-seven ranked as 8 or 8+; and six ranked as 7 or 7+. The best land is found along the southern and western borders of the town. In fact there is hardly any land in the two rows of sections along the southern and the two along the western border which is not rated at 10. In the northeastern part of the township the land is poorer, a little of it being very poor, and it is here that

<sup>1</sup> In order to avoid complication, each congressional section of land is treated as if it contained exactly 640 acres, though in those sections which lie long the northern and western boundaries of the township, the true size varies from 631.42 acres to 647.70 acres. These differences offset each other, and the totals given in the table vary only very slightly from the total true acreage of the township.

the small amount of land in the township which is not under cultivation lies. Although the cultivators of poor land are at a very great comparative disadvantage, still this northeastern quarter contains one or two of the most prosperous farmers in the whole township; their prosperity being due, however, directly to their own thrift. None but a very good manager can succeed on this poorer land.

As has been implied, the northeastern part of the township was less rapidly brought under cultivation than the other portions, and year by year the soil there requires the application of a greater amount of labor. It is to be remarked that the Germans are much more numerous in this part of the township than in any other. Among the seventy-four resident owners in the town, twenty are German, and of these, eleven, or fifty-five per cent, reside in the northeastern quarter. In no part of the township is the land perfectly regular as to quality or depth of the soil. Even on the best farms there may be found occasionally small patches of poor land. The writer thinks especially of one farm on which the soil in one corner is seven or eight feet deep and of the best quality, while in the opposite corner the sand subsoil crops out.

### *c. The Ownership of the Lands.*

We have next to consider the ownership of the lands we have been describing. Table<sup>1</sup> VIII. shows the total number

VIII.—SCHEDULE OF OWNERS.

	Never Resident.	Once Resident, now Non-Resident.	Now Resident.	Total.
Have sold.	188	106		294
Still own.	51	10	74	135
	239	116	74	429

<sup>1</sup> We must note that there are certain names which appear on the records but which are not included in these tables. For instance, where several members of one family successively held title to a

of persons who have at any time owned land within the township, and classifies them in two ways: first, according to their present status—whether they have sold or still own; and second, according to residence—whether they now reside upon the land, or have never resided upon it, or have formerly resided upon it but are at present non-resident. We see that there have been one hundred and ninety owners in all who have at one time or another resided in the township, of whom seventy-four are still resident; and that the total number of owners of land in the township at present is one hundred and thirty-five. Table IX. still further subdivides the owners, first classified as to residence, into those who took government land, those who purchased from the railroad company, and those who purchased from other owners. Next the present owners of farms are classified according as they reside in the township, in the county but outside the township,<sup>1</sup> or outside the county. We see that about fifty-five per cent of the present owners reside upon their own farms.<sup>2</sup>

Of the resident owners twenty-seven per cent, as has been seen, are Germans, the remainder being mainly Americans, with some few Irish and others. The states which have contributed the most settlers are Iowa and Ohio, though nearly all the states in a due easterly direction have furnished their shares.

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tract of land of which the real farming was, during all that period, carried on by the same person, the title of the land has been considered as remaining continuously in the name of the head of the family; for our unit here is the family rather than the individual. Nineteen names have been omitted under these conditions.

<sup>1</sup> It may be interesting to show the character of those owners who reside outside of Harrison township but within Hall county. Of the thirty-four so classified, seventeen have never been engaged in farming, five moved from the township to enter upon other occupations than farming, four are owners each of several farms which they oversee, though they do not personally engage in farming, and the remaining eight are farmers living upon farms which they own in other parts of the county.

<sup>2</sup> Attention is called to the fact, shown in Part I., that the numbers of this class have greatly declined in recent years.



IX.—INCLUDES ALL OWNERS WHO HAVE AT ANY TIME  
BEEN RESIDENTS.

	On Govern- ment land.	Purchased from R. R.	Purchased from other owners.	Total.
Still own and resident.	18	19	37	74
Still own, now non-resident.	8	1	1	10
Have sold.	60	19	27	106
	86	39	65	190

## X.—PRESENT OWNERS.

Residents of township, . . . . . 74

Non-residents of township but residents of county:

Formerly resident in township, . . . 5

Never      "      "      . . . 29      34

Non-residents of county:

Formerly resident in township, . . . 5

Never      "      "      . . . 22      27

185

Turn now from the personal side of the question to the acreage possessed by the various classes of present owners. Table XI. shows the acreage of land held by each of the three classes of owners, and also the number of acres farmed by owners, farmed by tenants, and still uncultivated. We find that over half of the land is farmed by owners, and that only about seven per cent is still uncultivated. The percentage of acres owned by residents is almost exactly the same as the percentage of owners who are residents. The average size of a resident's holding of land is about one hundred and seventy-five acres. The owner who resides in some other part of the county has on the average a somewhat larger holding than this, while the owner non-resident of the county has, in general, a smaller holding; the figures being one hundred and ninety and one hundred and seventy acres respectively.

# XI.—ACREAGE HELD BY VARIOUS CLASSES OF PRESENT OWNERS.

Owened by	Farmed by owner	Farmed by tenant	Not farmed (hay land)	Totals	Average size of farms
Residents of township.	11,920	1,040	0	12,960	175.14
Non-residents of township but residents of county.	1,040	4,520	920	6,480	190.59
Non-residents of county.	0	3,800	800	4,600	170.37
	12,960	9,360	1,720	24,040	

Per cent of acres farmed by owner, . . . . . 53.91

“ “ “ tenant. . . . . 38.94

“ “ not farmed, . . . . . 7.15

Per cent of acres owned by residents of township, . 53.91

“ “ “ county, . . 26.96

“ “ “ non-residents of county, 19.13

## B. CONDITION OF RESIDENT OWNERS.

Under this heading will be considered the debt of the residents of the township, whether secured by real estate or chattel mortgage, together with the improvements which are on their lands. The attempt may later be made to see in how far the debt is represented by improvements, and in how far it means that the owners of the encumbered land are losing in wealth. We may assume that, in general and under normal conditions, a moderate debt incurred for the purpose of bringing the farm under better cultivation, and for acquiring machinery and protecting it after it has been acquired, is a sign of progress rather than of deterioration. And we may assume this here even though the facts brought out later in this paper tend to show that, under the special circumstances we have been considering, a debt incurred even for what we may call legitimate purposes has been a hindrance and not a help.

*a. Chattel Mortgages.*

Let us consider first the chattel mortgages against residents of Harrison township.<sup>1</sup> Table XII. shows the total of unreleased mortgages on file to be \$23,932.22, but on account of a duplicate entry, one mortgage for \$1000 must be deducted from this to get the true amount of such debts shown by the books. After these figures were obtained, every mortgagor and mortgagee, as far as possible, was asked as to the state of the debt in which he was interested, and it became evident that almost two-thirds of the chattel mortgages appearing on record as still due had really been paid. The exact figures are given in the table. In attempting to get at the real amount of debt owed in the township

## XII.—CHATTEL MORTGAGES.

Total unreleased Chattel Mortgages on file, 103,	\$23,932.22
Less duplicate entry, . . . . .	1, 1,000.00
	<u>102, \$22,932.22</u>

## INVESTIGATION OF TRUE STATUS OF MORTGAGES.

Mortgages investigated, . . . . .	88,	\$21,910.50
Unable to investigate, . . . . .	14,	1,021.72
Of investigated Mortgages		

Really paid, but not canceled, 54, \$11,991.40

Partial payments, . . . . . 2,178.00 \$14,169.40

Still unpaid, . . . . . 34, . . . . . \$7,741.10

Per cent of investigated Chattel Mortgages still due, 35½  
 “ “ “ “ really paid, 64½

Taking these percentages of all Chattel Mortgages, we have:

Total amount still unpaid, . . . . .	\$8,102.07
“ “ really paid, . . . . .	14,830.15
	<u>\$22,932.22</u>

Amount secured both by Real Estate and Chattel Mortgage, and included elsewhere under the

head of Real Estate Mortgages, . . . . . \$1,475.00

Net Chattel Mortgage debt of the Township, . . \$6,627.07

<sup>1</sup> The figures presented here are those as shown by the books of the county clerk of Hall county on the first of September, 1892, and include all mortgages filed since September 1, 1887. Mortgages filed before that time are invalid, being outlawed by the statute of limitations.

a further deduction has to be made for debts secured both by real estate and by chattel mortgages, which debts being included in the lists of real estate mortgages should not be again reckoned here. Making the necessary deductions, the actual total of unpaid chattel mortgages against owners of land in the township is brought down to \$6627.07.

Out of the seventy-four resident owning farmers, only twenty-seven owe any money on chattel mortgage, and of these twenty-seven, sixteen had ninety-one unreleased mortgages against them. This very uneven distribution shows that the chattel mortgage has now come to be rather a mark of poor success. An important bearing of the facts here stated is in refutation of the argument based on the increase of chattel mortgages which is very often adduced to prove that western farmers are sinking ever deeper into financial difficulties. Whatever may be the real truth about the conclusion, the argument certainly is far from right. As long as farmers are too negligent or too careless about their own personal standing before the community, to place on file the releases of the mortgages which they have paid, just so long we can expect nothing else than that the total amount of such mortgages on record will show an enormous apparent increase from year to year.

#### *b. Real Estate Mortgages.<sup>1</sup>*

The bulk of the debt owed by farmers is secured by mortgages upon their farms, given in the main to resident agents

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<sup>1</sup> The following figures are based on the records in the office of the county clerk of Hall county; those for 1892 include no instruments filed later than September 1st. Only mortgages evidently given to secure the principal of a debt are included in the totals, and no interest due on this debt is regarded. It is very common for the farmer in his dealings with a loan company to execute a second mortgage in favor of the company to secure the payment of its commission, which is usually about one per cent. As these commission mortgages are really of the nature of interest, none of them are here included, though their total would be quite a considerable sum.

of large eastern loaning companies;<sup>1</sup> and it is due to the size of this debt, and the debtor's consequent liability of losing his homestead if poor management or bad luck prevent him from meeting his payments as they fall due, that much of the recent wide-spread discontent has arisen. The tables to be given will include, first, a general statement of the debt; second, an analysis of it based on the character of the land, whether originally government, railroad, or school land; third, an analysis with reference to residents and non-residents; fourth, an analysis of the debt owed by residents with regard to the source from which they derived their title to the land; and fifth, the connection will be traced between the debt and the quality of the lands mortgaged.

1. Table XIII. shows the number and per cent of farms mortgaged, and also the number and per cent of acres mortgaged. It then gives the face value of the mortgages as they stand in the office of the county clerk; but in order to allow for partial payments which have undoubtedly to some extent been made, and which it was not possible to investigate directly, a deduction of 5.21 per cent is made, since it has been shown by the census of 1890 that that per cent is the average proportion of partial payments on real estate mortgages for the State of Nebraska. With the total amount of debt thus calculated, we find the average indebtedness on each acre mortgaged to be \$8.78, and the average debt per farm to be \$1517.32. Now it would not be safe to estimate the average value of these farms, even when well improved, above, say, \$25 an acre, so we can see what a large proportion on the average the debt on the mortgaged farms bears

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<sup>1</sup> Seventy-six per cent of the mortgages were given to loaning companies; twelve per cent were given to persons of whom the land was purchased, and twelve per cent to other persons or corporations. As to the residence of the mortgagees, seventy-nine per cent of the mortgages are owned by persons or corporations non-resident of Hall county; seventeen per cent are owned by residents of the county, while the remainder, four per cent, have owners whose residence is unknown. None of the mortgages are owned by residents of the township.



to their total value, being in fact considerably over one-third. With interest to pay on such a sum, and with the final payment to provide for, it is no wonder that the years of partial failure, always liable to occur in agriculture, become doubly discouraging to any but the most energetic farmer.

### XIII.—REAL ESTATE MORTGAGES.

Total number of farms mortgaged, . . . . .	91.
Per cent. of farms mortgaged, . . . . .	67.41
Total number of acres mortgaged, . . . . .	15,720.
Per cent. of acres mortgaged, . . . . .	65.39
Face value of mortgages on record, <sup>1</sup> . . . . .	\$145,665.42
Less 5.21 per cent. for partial payments, . . . . .	\$7,589.17
Estimated true value of debt, . . . . .	\$138,076.25
Av. debt against each mortgaged acre, . . . . .	\$8.78
“ “ “ mortgagor, . . . . .	\$1,517.32
“ “ “ acre in township, . . . . .	\$5.74
“ “ “ owner in township, . . . . .	\$1,022.79

2. We have already seen in Table VII. that in the district which we are considering there are 10,760 acres of land to which the title has come directly from the government; 11,840 acres which have been acquired through the Union Pacific Railway, and 1440 acres obtained from the State school lands. Table XIV. will show the relative amount of debt which these different classes of land now bear.

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<sup>1</sup> One mortgage, on record, for \$50,000, covering 600 acres in the township, has been omitted for the following reasons: It covers, besides the 600 acres in the township, also 3280 acres in other parts of the county. It was given by a non-resident corporation in the course of a speculative investment in lands. The 600 acres mortgaged is school land, to which the corporation mentioned holds only contracts of sale from the State, and there is a prior debt of \$3780 to the State on the land, which latter debt is included in the tables. The whole transaction is entirely foreign to the general character of land ownership and indebtedness in the township. In short, since the part of the mortgage attributable to this land is really the unpaid purchase money of the last sale of the land, the matter is treated just as if the sale had not taken place and the land was still in the hands of its last owner.

These figures may be hastily passed over, for they prove little except that the three classes of land have been subjected to the same influences, as in trading, to such an extent that there is no great difference at present in the average amount to which they are mortgaged. It is shown, however, that the proportion of acres of lands derived directly from the government, which have been mortgaged, is not yet so large as that of land derived through the railroad company. The variation in the debt per acre on the school lands is due to the fact that in most cases the debt is not borrowed money, but simply the unpaid remainder of the purchase money.

XIV.—REAL ESTATE MORTGAGES ON GOVERNMENT,  
RAILROAD AND SCHOOL LANDS.

	Government land.	Railroad land.	School land.
Total acreage,	10,760	11,840	1,440
Acres under mortgage, . .	6,400	8,040	1,280
Acres clear, . . . . .	4,360	3,800	160 <sup>1</sup>
Amount of mortgages, . .	\$58,549.16	\$71,701.23	\$7,825.86
Av. debt on each acre of each class in township, . . .	\$5.44	\$6.06	\$5.43
Av. debt for each mortgaged acre of each class, . . .	9.15	8.92	6.11
Per cent. of acres mortgaged.	59.48	67.91	

<sup>1</sup> This 160 acres has not yet been sold by the State.

3. The real estate mortgages are next to be classified into those upon lands owned by residents and those on lands owned by non-residents, with a view to seeing whether the actual burden of the former class is greater or less than the average burden for the whole class of present owners as shown previously. Table XV. shows the general figures as to the distribution of all farms and of mortgaged farms, and of all acres and of mortgaged acres, between residents and non-residents. It shows also the amount of debt owed by each of these classes.

**XV.—MORTGAGES ON LANDS OWNED BY RESIDENTS AND  
BY NON-RESIDENTS.**

	Owners Resident.	Owners Non-resident.	Per cent of owners resident.
For all farms, . . . . .	74	61	54.81
For mortgaged farms, . . .	57	34	62.64
	Acres owned by residents.	Acres owned by non- residents.	Per cent acres owned by residents.
For all acres, . . . . .	12,960	11,080	53.91
For mortgaged acres, . . .	9,320	6,400	59.29
	Debt of residents.	Debt of non-residents.	Per cent of debt owed by residents.
Amount after deducting 5.21 per cent for partial pay- ments, . . . . .	\$75,281.85	\$62,794.40	54.52

In comparing the figures in this table, we see that while about seventy-seven per cent of the residents have their farms mortgaged, only about fifty-five per cent of the non-residents are similarly encumbered. Again, the residents, owning 53.91 per cent of all the acres, owe almost exactly the same proportion (54.52 per cent) of the debt. Confining ourselves to persons holding mortgaged property alone, we find that residents own 59.29 per cent of all the mortgaged acres, but they owe a somewhat less proportion of the debt, viz. 54.52 per cent. From the next table (XVI.) we see the average size of mortgages and the average debt per acre for each of these classes. Table XIII. has shown us that the average debt against each mortgaged owner in the township is \$1517.32, but we see here that the average debt against each mortgaged resident is only \$1320.73, while that against each mortgaged non-resident is \$1846.90. Similarly, the average debt on each mortgaged acre in the township is \$8.78, while that on each mortgaged acre belonging to residents is \$8.08, and that on each such acre belonging to non-residents is \$9.81. The averages, based on the same distinction, for all residents in the township, whether mortgaged or not mortgaged, are also subjoined.

XVI.—AVERAGE SIZE OF MORTGAGES AND AVERAGE  
DEBT PER ACRE.

	Average size of mortg'ges		Average debt per acre.	
	Residents.	Non-residents.	Residents.	Non-residents.
For all owners in town-ship, . . . . .	\$1,017.32	\$1,029.41	\$5.81	\$5.67
For mortgaged owners only, . . . . .	1,320.73	1,846.90	8.08	9.81

Thus far our figures have tended to indicate that the average debt of owners in actual residence is not quite so heavy as that of the class of farm owners as a whole. But we can widen our point of view a little, and attribute the debt to residents or non-residents, not according to the class in which the land under its present ownership falls, but according to the class to which the land belonged at the time when the debt was incurred. For instance, a farmer in actual residence may have found himself compelled to put a mortgage on his home, and he may then, some time later, have sold either for his own profit or compelled by necessity; or he may have moved off his farm without selling. In these cases, the purchaser, if any, often stands ready at any time to pay the mortgage, but of course cannot do so until it is due without considerable loss. Now if we should divide the debt into two classes, according as it was incurred by residents or by non-residents, such cases as those above would fall in the former class, though in the tables we have given they of course came among the debts of non-residents. Table XVII. shows the debt incurred by residents and that incurred by non-residents, and we find that 68.75 per cent of the debt was incurred by the former class, upon 70.99 per cent of all the mortgaged acres. But we still find that the average debt per mortgaged acre for residents is considerably lower than that for non-residents, as is also the case with the average size of the mortgage. But if we now compare the average debt per acre on all acres for residents with that for non-residents, we find the former to be about forty per cent larger than the latter, the

figures being \$6.41 as against \$4.67. The conclusion is that while over two-thirds of the debt has been incurred by residents, and a much larger percentage of residents' land is under mortgage than of non-residents', still the debt per acre which the mortgaged residents have incurred upon their lands is slightly less than the debt similarly incurred by mortgaged non-residents.

**XVII.—DEBT INCURRED BY RESIDENTS AND BY NON-RESIDENTS.**

	Acreage.		Debt.		Average size of mortgage.		Average debt per acre.	
	Number of acres mortgaged.	Per cent of all mortgaged acres.	Amount of debt.	Percentage of all debt.	For all farms.	For mortgaged farms.	For all acres.	For mortgaged acres.
Incurred by residents,	11,160	70.99	\$ 94,928.16	68.75	\$ 1,116.80	\$ 1396.	\$ 6.41	\$ 8.51
Incurred by non-residents,	4,560	29.01	\$ 43,148.09	31.25	\$ 862.96	\$ 1876.	\$ 4.67	\$ 9.46

4. Our next tables deal with the debt of residents still more largely from a personal point of view. They distribute it into divisions according as the borrower was a taker of government land, a purchaser of land from the railroad company, or a purchaser from some other former owner; purchasers of school land are included, for the sake of simplicity, under this last division. Table XVIII. shows the number of owners both with mortgaged and with unmortgaged lands in each of these three classes, and gives the number of acres each class possesses, and the totals of its debts. It also gives the average size of farms, the average debt per man and the average debt per acre for each of these classes. Class "A," composed of those who took their original lands from the government, is divided into two sub-classes according as the farmers have borrowed money on their original homesteads, or still have them free from debt; and those who have their original homes still unencumbered are divided further into those who owe no



money whatever upon land, and those who owe money only upon additional lands recently purchased. A foot-note gives the facts about the mortgages which have been executed by the men of this last subdivision.

XVIII.—REAL ESTATE MORTGAGES OWED BY RESIDENTS, WITH REFERENCE TO THE MODE OF ACQUISITION OF THE LANDS.<sup>1</sup>

	Number.	Acres.	Amount of debt.	Average size of farm, acres.	Average debt per man.	Average debt per acre.
A. SETTLED ON GOVERNMENT LAND.						
a. Original home unmortgaged:						
1. No mortgage on any land, . . . . .	9	1,680		186.66		
2. Additional lands only mortgaged, <sup>2</sup> . .	5	1,280	\$3,950.00	256.00	\$790.00	\$3.09
b. Original home mortgaged, . . . . .	4	640	3,300.00	160.00	825.00	5.16
B. SETTLED ON RAILROAD LAND.						
a. Lands unmortgaged,	3	720		240.00		
b. Lands mortgaged,	16	3,000	23,400.00	187.50	1,462.50	7.80
C. PURCHASERS OF LAND FROM INDIVIDUALS.						
a. Lands unmortgaged,	4	440		110.00		
b. Lands mortgaged,	33	5,200	48,769.61	157.57	1,477.87	9.38
	74	12,960	\$79,419.61	175.14	\$1,073.21	\$6.13

These figures are very striking from almost every point of view. First, we observe that half of all the settlers on government land have their lands entirely free from mortgage, while only four have mortgages upon their original homes; in the case of those who have mortgages upon their additional lands, the average debt per acre is very low, being only \$3.09. Of those who have their original homes mort-

<sup>1</sup> In this table the percentage of partial payments has not been deducted, as the figures are used only for comparison, and by omitting this deduction the matter is much simplified.

<sup>2</sup> The mortgages against these five men cover 480 acres of their lands, and, the total amount of their debt being \$3950, the average amount they owe on each mortgaged acre is \$8.23.

gaged, two came in among the last of those who took government land; two have very small mortgages; moreover, the average debt per acre on the property of these is itself quite low, being \$5.16. Then again we notice that the size of the farms among these settlers averages larger than among either of the other classes; the homes of those, especially, who have additional lands which they have mortgaged are much larger than those of any of the others. Not one of these settlers on government land who has a mortgage to take care of can be said to be at all seriously embarrassed by it, and some of them are, despite their mortgages, as well off as any men in the township.

Take up next the settlers on railroad land and what a difference! There are only three of them without mortgage, as against sixteen holding mortgaged farms, and the average debt per acre on those lands which are mortgaged is \$7.80, or half again as much as the average debt borne by those settlers on government land who have their original homes mortgaged. Following the analogy of class "A," we would expect to find the mortgaged farms larger than those which are clear, and we shall find this to be the case in class "C"; but in class "B," the unmortgaged farms are considerably larger on the average than the mortgaged; this points to something exceptional in these particular cases, and in investigating the cases in detail we find this indication borne out in fact. Of the three purchasers of railroad land who have their lands unmortgaged, two are brothers who had been farmers in Germany, and who, coming to America with considerable property, were able not only to buy and pay for comparatively large farms, but to put considerable money in bank—certainly a very exceptional state of affairs with the ordinary settler on a Nebraska farm. The third case is that of a man who bought railroad land at an early date and farmed it for a number of years, but on the death of his wife drifted away into other employments. Having made the final payments on his land, and having inherited more land in the immediate neighborhood,

he has now come back with a new wife, once more to try his luck at farming.

When we come to purchasers, we find only four unmortgaged farms, as against thirty-three mortgaged ones. The average size of the farms is very much smaller, being only one hundred and ten acres for the unmortgaged and about one hundred and fifty-seven acres for the mortgaged. The average debt per acre is higher than in either of the other classes; in fact, so much higher that, despite the comparative smallness of the farms, the average debt per farm is higher than elsewhere.

It has already been remarked that none of the settlers on government land are in poor circumstances, while among their ranks the great majority of the most prosperous farmers are to be found. Of the settlers on railroad land, nearly all would be included if they were as a class described as quite heavily mortgaged, but with debts not so great as to make it seem probable that any of them will be unable to extricate themselves with time. The only case here to be ranked among those whose future prospects are doubtful is that of a man whose agricultural experience has been very limited, and as he seems to have almost no capital, and labors under still other disadvantages, it is doubtful how long he will be able to hold out. But now, when we turn from the purchasers of land from the railroad company to class "C," the purchasers from other owners, we find as marked a change in conditions as we noticed in passing from class "A" to class "B." The mortgages are heavier, the well-to-do are comparatively rare, and there are many persons in very poor circumstances. In fact, there are quite a number with whom it seems to be only a question of time, and a short time at that, when they will have to give up their holdings. One is almost tempted to draw the moral that the would-be purchaser, at least the one whose means are not sufficient to pay entirely for his farm and then tide him over all subsequent periods of hard times, had almost better throw his money away than invest it in farming operations

in Nebraska, at the current prices of land and under the present agricultural conditions; unless, indeed, he be possessed of unusual energy and ability.<sup>1</sup>

5. Our last analysis of the real estate mortgage debt will consist in drawing a comparison between the size of the mortgages and the fertility of the lands mortgaged, showing what a very great disadvantage the possession of relatively poor land is to a farmer. These figures are not given for the whole district which we have heretofore been considering, but only for the thirty-six square miles included within the township proper.<sup>2</sup> Table XIX. shows the amount of the debt on all the lands of the four different grades described on page 54. As it refers to both residents and non-residents it is naturally rather vague, but we see from it in general the fact that the mortgages on the poorer lands tend to be larger than those on the better lands, and that, in the main, a larger percentage of the poorer lands is under mortgage.

Table XX. contains the same statistics, but limited entirely to residents. We see that the average debt per acre for all land of each class decreases steadily with the rise to better grades of land; also the percentage of the land which is under mortgage is much less for the better land than for the poorer. All of the land of grade seven owned by resi-

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<sup>1</sup> This statement, it is true, is at variance with the eager demand that exists in certain quarters for really desirable farming land. Why this great demand may exist and yet the position taken in the text be true, will be touched upon in a later place.

<sup>2</sup> The omission of the outside lands is made necessary because the writer has not at hand any ratings for the fertility of the lands not within the township proper. The estimates have been made by using quarter sections of land as a basis, not, as in the preceding tables, by considering the individual man as a basis and referring all his debt to all his property. Consequently the totals will differ in some respects from those preceding. The total debt for each quarter section, whether it is to be paid by one or more persons, and whether all or only part of the area is encumbered, is attributed to the quarter section as a whole, and so to the appropriate grade of land. Thus only those quarter sections come under the heading un-mortgaged which have no encumbrance upon any portions of them.

dents is under mortgage, while less than two-thirds of the land of grade ten is encumbered. Similarly we find a decrease in the average debt per acre for mortgaged acres as we ascend to better grades of land, though here there is a slight break in the case of grade nine, which has a lower average debt per acre than grade ten. We infer, in general, from these facts, that the lot of the settler on the best land is disproportionately better than that of the man on poor land. If it were a mere question of how much one could borrow, the resident of good land would of course be able to incur the heavier debt. Both the farmer of good and the farmer of poor land started on a level, or, if the latter was a comparatively recent purchaser, he acquired his farm at a lower price and consequently started with a smaller debt or outlay of purchase money, but he has now fallen very far behind in almost every case. So decidedly is this true that one might almost infer that the ordinary man had better pay twenty-five dollars an acre or more for a good farm than take the poor one as a gift, if he has any regard whatever for his probable condition after a number of years of farming.

#### XIX. AND XX.—MORTGAGES AND FERTILITY.

Grade of land.	Area in acres.		Amount of debt.	Debt per acre.		Perc'tage of lands of each quality mortgag'd	
	Unmortgaged.	Part mortgaged.		For all acres.	For m'tg'g'd acres,		
XIX.—For all land.	7	160	800	\$8,301.81	\$8.65	\$10.38	83.33
	8	1,760	2,560	22,560.67	5.22	8.81	59.26
	9	1,280	3,360	25,782.67	5.56	7.67	72.41
	10	4,000	9,120	81,870.27	6.24	8.98	69.51
XX.—Residents only.	7		560	\$6,035.14	\$10.78	\$10.78	100.00
	8	240	1,120	10,035.14	7.38	8.96	82.35
	9	480	1,480	12,000.00	6.12	8.11	75.51
	10	2,880	5,280	44,949.33	5.51	8.51	64.71



*c. Improvements on Land in Harrison Township.*

In accordance with the plan of this part of the paper, the next thing to consider is the value of improvements on the various farms, and under the head of improvements we include here buildings, fences, fruit trees, if any, draining, etc., but not the cost of breaking the land, that being a necessary preliminary for all the land before it goes into cultivation. Table XXI. gives a map<sup>1</sup> of the township proper, with figures representing the estimated value of improvements on each tract of farming land. An asterisk means that the land has no improvements upon it in the sense above, though it may be broken and under regular cultivation either by an owner non-resident of the township or by a renter. The figures given are for values in dollars at the present day, not for cost of construction, and are of course estimates based partly on examination of the buildings themselves and partly on the statement of the occupant or some one of his neighbors. Owing to the scanty opportunities for learning the facts, the figures can by no means be considered as exact, and many errors have no doubt crept in; but an effort was made to approximate actual values as nearly as might be, and the figures given are thought in the main to be sufficiently accurate for the purposes of this paper. Table XXII. gives a similar outline map showing the mortgages on the same tracts of land. Here a circle represents unincumbered land. This table is introduced here for purposes of comparison, in preference to bringing it in under the heading of real estate mortgages previously considered. By turning from one table to the other we can readily see how nearly the mortgage on any one tract of land corresponds to the amount expended on it for improvements. The letters "G,"

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<sup>1</sup> In this and the following map the heavy lines indicate section boundaries, and serve at the same time as the limiting lines of farms. Whenever one farm includes land on each side of the section boundary, the heavy line is replaced by a dotted line, to indicate that fact. The light solid lines are in all cases the limiting lines of farms.

"R," and "P" are inserted, (but only on those tracts of land on which owners are in actual residence), to indicate whether the owner of the tract has been classed respectively as a settler on government land (G), a purchaser from the railroad company (R), or a purchaser from a former individual owner (P). In running through the cases we see that it is the last of these classes whose mortgages are to the least extent represented by improvements, while at the other extreme the comparatively few settlers on government land whose places are encumbered have ample improvements to show for their debts in all except perhaps two cases. This conclusion agrees very closely with that arrived at when considering mortgages alone with reference to the kinds of land originally settled upon.

## TOWNSHIP, NEBRASKA.

*	100	1000	1500	800	300	600	300	800	4000	1500	600
50	3000	*	300-400	300	500		100-150	*	1200	*	*
*	600	700	1200	1200	700	800	*	200	200	2000	*
800											*
	700	*	*	1500		*	*		1800-2000	200	*
1000	700	*	500	500	400		1200	*	*	1300-1500	700
					50		*	*	*	*	*
500	*	400	250-300	400-500	400		*	*	*	1300-1500	700
											*
700	700	*	150-200	50	*		300	300	*	500	300
											250-300
1000	700	1000	1200-1400		*		200	400-500	250-300	100	200-300
											*
900	400-500	1200	*	400	900	X			500	800-1000	400
			50			1000		1500			
1100	800			*	*	200-300				*	500
1200		600	500-600			300-400	2000		700	*	500
											500-600
700	*	*	1200	800-900	300	1000	750	150	*		200
									*		*
500	*	1000	1000	800	200	1000	*	*	300	500	*
		*	800			200	100				

XXII.—MORTGAGES ON LANDS IN HARRISON TOWNSHIP, NEBRASKA.

°	° G	° P	700 P	700 G	865	600 P	° R	2000		2500 P	1200 R	2000 R
1500	° G	°	1600	300 P		2500	1600	°		5070 P	°	° °
° 800 R 600	800 P 350 R	2983	1100 P	R °		2000	°	1500	1842	1000 R	°	°
	°	1000	°	° R		°	°	1600	2000 R		°	950
° 300	2700 P	°	°	1008 P		1008 P	4000		°	1200	1200 R	1000 R
700	750 P 750 P	2500 P	°	1008		°			°	P °	1200 R	° ° ° P
2000	1900 P	700	1500 P	1750		3200	° G	1000 G	°	1800 P	1900 P	1600
2000	1000 R	° G	° G	1750			2000	1100 G	800	°	°	°
500 G	3400 P		500 571 800 R	° G		°	° P	°	500 P	1400 G	2000	250 R
700 P 300 P	1800 P		3150	733 350		1050 P	600 R	°	°	° G	2000 P	° 200 P
°	867 °	° G	1467 P	1400 P		1000 P	° G	2663	700 800	3000	3780	
2000 R	800	433 R 333 ° G	°	1500 P		900 P	° °	2700	600 P	° P °		

#### IV.—CONCLUSION.

It remains now to summarize briefly the facts shown respecting the condition of the farmers in Harrison township since its settlement, with a view to learning something of the various economic influences that during that time have been operative upon western agriculture, as far as they may be exemplified in this township. As will be seen, our data permit us to examine only such influences as can be seen plainly at work in individual cases. Matters like the burden of indirect taxes, or the effect of changes in the value of the circulating medium, which can be observed only on the wide scale, are here excluded.

We have had before us a class of farmers owning lands of steadily increasing value. Of those who are still residents, about half got their lands either as gifts from the government, or on very easy terms from the Union Pacific Railway Company; the remainder purchased their farms from other owners than the railway company, at prices ranging from seven or eight dollars an acre in earlier times to twenty-five or thirty dollars in late years; in most cases these paid a good part of the purchase money in cash. The farmers of this township have on the average a little over a quarter section of land each, and usually from 125 to 135 acres in a quarter section is plow-land. A large proportion of the farms are mortgaged, and the debt on such as are mortgaged is on the average something over one-third the actual value of the farms. When a tract of land is once encumbered, the tendency is often for the mortgage on it to increase in size as the rise in the value of the security makes a larger loan possible. The mortgages on lands obtained from the government or the railway company are in general lighter than those on lands purchased from individual owners, and the condition of the farmers owning such lands is correspondingly



more prosperous. This we find natural to a certain extent, inasmuch as purchasers are very rarely able to pay in full at the time of purchase, and so usually start out encumbered by a mortgage debt; but the frequent increase in the size of mortgages thus incurred, and the corresponding unprosperous condition of those who are to pay them, is indicative of the fact that in very many instances the real burden of a mortgage has been much greater than one would infer from the mere knowledge of its amount.

We must note, however, that there is among the residents of the township, as nearly as can be judged, a comparative freedom from floating debt. The chattel mortgage debt, of which the sum-total is comparatively small, is confined mainly to those most heavily burdened with debt on real estate, and can be interpreted in general as emphatic evidence of the poor financial condition of the least prosperous farmers.<sup>1</sup> The appreciation in the value of lands furnishes us the clue to the lack of floating debt among the more prosperous farmers; for whenever any amount of such debt has accumulated, the farmer, unless his land is already mortgaged to the maximum, is usually able to augment his loan on the basis of the increased value of the land, and, with the funds thus obtained, to pay off his smaller debts. This expedient is usually resorted to; for the rate of interest on the real estate loan is considerably less than that on smaller loans with other security, and there is in addition an advantage in being free from the annoyance of having continually to provide for the satisfaction of small debts coming due at frequently recurring intervals. As to improvements on land, our tables have indicated that these are much better on the farms of settlers on government land than on the farms of other classes, and that it is mainly on the farms of the later purchasers that the debt is not represented by improvements. We note that the number of resident owners has greatly decreased in late years, and also

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<sup>1</sup> However, in a more recently settled township, or in a township where the farmers were in the habit of buying cattle on a large scale to feed, on credit, this rule would not hold.

that the number of farmers failing in comparatively late years from what seemed unavoidable causes directly connected with their farming operations, has been larger than at any other period in the history of the township. The drought of 1890 had undoubtedly very much to do with this fact, but a cause is also to be found in the temporary cessation of increase in land value in the years just prior to 1890 or '91, and the consequent inability of the debtors to increase their loans so as to make good past deficiencies with the proceeds.

With the knowledge now arrived at of the condition of the farming classes, let us pass in review the various economic influences which have affected them so far as these influences are exhibited by the material collected in this monograph. What is said about these forces must be understood to apply to the farmers of normal ability, who have at their service an average amount of capital. Unusual shiftlessness or misfortunes may have accelerated the failure of some, and unusual ability may have given positive prosperity to others, but such elements we may for the time leave to a certain extent out of consideration. It seems sufficiently evident from Part II. of this paper that over and above those who have failed owing to personal causes, there are men whose ruin or financial embarrassment has had behind it causes which cannot be so localized; and their lack of success has been described as due to prevalent agricultural conditions, a phrase which we are now to analyze.

However, of the conditions possibly unfavorable to the farmer, we evidently have no data here from which to examine those which may be connected with the whole economy of our industrial society, such as indirect taxes, changes in the value of money, the modern distributive process, and perhaps also the influence on prices of the greatly increased production from the recently opened prairie states. Other matters, however, of a less wide-reaching character we are in a position fairly to examine.

From our account of the farmers' condition, it is clear that the central fact is the rise in the value of land. For it is this rise that has given the opportunity for the continued increase

of mortgage debt; and even a temporary cessation in it has been followed by an increased number of failures among the farmers. We may almost infer that in many cases the greater part of the wealth that the farmer of average ability now has must be attributed to this rise in value; for very often the value of the improvements and personal property is covered by the mortgage debt, and this means that the amount of profits which have been realized and invested upon the farm has been very small. Indeed, in many cases the present farmer's equity in his land would be little or nothing were it not for this rise in value, while he would have been unable without it to obtain the means to reach even as advanced a system of cultivation as is in vogue at present. It must be admitted, however, that this conclusion will hold good only for the farmer of average ability. A man of poor personal habits, or one who is shiftless in his management, will dissipate the increment in the value of his land as fast as he can make use of it as security for new loans. On the other hand, a skilful, energetic, economical farmer, who knows how to avail himself of every advantage, will probably be able, with average good luck, to pay off in time even a heavy debt incurred in the purchase of his farm. But even with these qualifications, should fortune not favor him he may fail miserably; for he is dependent on credit, and credit, though it furnishes wings to the man fit to use them, so long as the wind of fortune is fair, becomes a dead weight to drag down the less able, or even the competent when fortune fails. If there were space to consider the individual cases of the farmers in Harrison township, we should find a few young men whose ability has been such as to enable them thus to overcome the hindrance of heavy debt at the start and become in the end prosperous farmers.

Probably the only other persons besides these exceptionally able ones who have succeeded in making considerable profits and saving any part of them are those farmers who received their land in early times from the government. These, having a clear start, were enabled in most cases to avoid the burden of heavy debt, and consequently, in a year

of good crops, they could at once invest their profits permanently on their farms.

It may well seem that these statements in regard to the frequent unprofitableness of farming operations are not in harmony with such facts as that the market price of land is at present increasing rapidly, and that there is now a more eager demand for good agricultural land than has obtained for a number of years; and again that land is now being eagerly sought by renters who are willing to pay a larger proportion of the produce for rent than ever before, and who will in some cases even pay a quite high cash rent. It might be said that in order to occasion such a demand for lands to purchase and to rent, farming must be very profitable, or at least that the chances of high profits in it must be very good, and this would not agree with our preceding inferences. Attention should, however, be directed to one or two influences of importance which, apart from the profitableness of the investment, might create a high demand for land.

In the first place, although the available free government land has been practically exhausted, yet the tradition of cheap farms easily obtainable still lingers in the minds of the people, and so the home-seeker still turns his thoughts toward the West, where prices of land are really low in comparison with those current further east. But the conditions make it necessary for him to resort to new methods of acquiring the desired land. If he has some little capital he will probably try to purchase as large a farm as possible with what means he has at his disposal for the first cash payment; then, giving a mortgage for the balance of the purchase money, he will trust to Providence for the ability to meet the debt when it comes due. If the newcomer has not money enough to purchase land in any way, he will seek for a farm to rent with the hope that he may before long become an owner himself. In these facts we see a prominent reason why the demand for land may have increased without regard to the income produced by it, until its selling price, and as well its rental, have become much higher than the income really warrants. The possibility of such influences having their effect upon the



demand for land is made greater by one of the characteristics of investment in farming operations, which may be specially mentioned; this is the slowness with which the true rate of agricultural profits can be estimated, owing to the great variations from year to year in the size of the crops and in the prices at which farm products will sell.

A special case of this migration of home-seekers to the newer western states is exemplified on a considerable scale by the large parties of farmers who at the present time (March, 1893) are leaving Illinois for Nebraska, the Dakotas, and neighboring states. As the value of land in such states as Illinois increases, the younger generation finds it constantly growing harder to acquire farm homes of their own. Consequently it often happens that the owner of a small farm sells it, perhaps to a non-resident landowner, and moves with his sons further west, where the proceeds from the old farm will purchase enough land for both father and sons.

But again, a cause for the increased demand for farming lands may be sought in the deeper relations underlying all industrial society. Farming may be an uncertain means of getting a living, and yet it, or the ideas of it current in the eastern states, may seem to many a laborer so much better than his existing lot, or may actually be such an improvement upon it, that he is only too glad to seek to better himself by means of it; and thus he helps to swell the already overcrowded ranks of agriculturalists, and so raises the price of their primary necessity—the land.

Though the special peculiarities in the character of the income derived from farming operations should by no means be left out of account in considering the status of the farmers, yet a brief mention of these peculiarities must suffice here. In the first place, the irregularity in the amount of the income from year to year has very important effects. Though even the tenant farmer may almost always feel confident that a sufficient supply of food is assured him, no matter how poor the crop, still every farmer is liable to have his year's profits



totally wiped out, or even to suffer quite a heavy loss if the season should be very bad; for the margin between the normal net income and the sum of the living expenses and the interest on the investment is often very narrow. Thus while a well-to-do farmer may be able to recuperate in succeeding years from a heavy loss of crops, yet such a blow may be too great for one who is poorer or deeply indebted, and may effect his ruin before he has time to attempt to repair his losses. The effects of bad management in wiping out this margin of profit are very similar to those of bad seasons, and when poor management and poor crops are found in conjunction, there is little hope for the farmer.

It should be remarked, however, that while the crop failure of 1890 ruined many farmers who were already heavily encumbered with debt, still in some cases indirect results of a very different kind can be traced. For many of those farmers whose affairs were in moderately good condition and who had sufficient energy to cause them at once to set to work to recover their lost ground, have really profited by their experience. They have become much more conservative, and are less inclined to enter upon speculative transactions, especially where they would have to make use of credit. Consequently they will soon be in better position to resist heavy losses, should such again befall them.

Next, in regard to direct taxes, it has been seen that these are by no means so high as seriously to affect the farmer's prosperity, being probably in no case above four or five mills on the dollar of true valuation.

Freight rates have played a more important role, especially since of late years it has become necessary to ship large amounts of surplus products to distant markets; and they often absorb a large part of the gross price for which the product sells. Whether the responsibility for this deduction from the farmer's receipts lies with railroad companies which charge excessive rates, or with the conditions which make necessary the shipment of grain for such great distances, must be decided from other evidence than that which we have gathered.

The influence of the use, and more especially of the abuse, of credit will require a more extended treatment, for it is by no means a simple matter and needs to be looked at from several points of view. In the first place, the mere borrowing of money cannot be said to be in itself a harmful thing. Credit has a tendency to multiply as well the opportunities for gain of the man who makes use of it, as to make greater his dangers of loss; but it is only rarely that it can be called the direct cause of either gain or loss. Merely to say that the farmer pays too high interest for his money is in no way an explanation of his financial difficulties; for the rate of interest is adjusted by a competition acting with comparative freedom, and we must go back of it to consider the earning power of the material things in which the borrowed money is invested.

The economic significance of a mortgage debt depends partly on the previous financial condition of the debtor, but perhaps to a still greater extent on what is the corresponding item on the opposite side of his balance-sheet. As to this latter, we must consider whether there stands back of the debt an asset, the liquidation of a loss in the past, or a present personal expenditure. If the money is borrowed for either of the last two purposes, then the debt will be a dead weight, to be provided for from other sources. If the item offsetting it in the accounts is an asset, then one must consider further whether it has the actual present value of the debt; for in so far as it has not, the debt will be a drag, just as in the cases above. If the asset does actually have a value equal to the debt, then we must examine first whether it is likely to appreciate or depreciate, and second whether it is income-producing or not. If income-producing, then such income must be investigated as to its amount, as to the regularity with which it accrues, and the probability of its permanence.

Applying these principles, we shall be able to see why a mortgage bearing seven per cent interest, that represents in part a payment for high-priced land, in part a new house, and in part losses or expenses in excess of income, may perhaps be more burdensome to the farmer of to-day than a small

loan at three per cent a month given by an early settler who had practically no means to obtain the funds to begin cultivation or even to make the first payment on cheap land. For the early settler could reasonably expect to make and save both principal and interest out of a single crop, while the variable income of the farmer to-day may often fall so low as to fail to yield sufficient surplus to pay the interest on that part of the debt which is represented by income-producing assets, much less on the remainder of it.

In the region which we are considering, capitalization of all agricultural property is too high (it has been previously maintained that the basis of capitalization is not so much income as a demand arising from other causes), and from this two results follow: first, that the rate of income from land is low compared to that from other investments, and second, that the marginal amount of money that can be borrowed on the land is high in just the proportion that the capitalization is high. Now under these circumstances let a farmer pay the rate of interest which is current in the money markets, and if the debt is large or long-continued, the tendency is for him steadily to lose. It must of course be remembered that agriculture is a highly uncertain occupation, so that a succession of good crops may entirely overcome this normal loss, or a succession of poor ones may greatly increase it.

What we have thus far said of the use of credit has been of such general application as to apply to all borrowers alike, but it will now be necessary to show how borrowing becomes a much greater evil to certain classes of farmers than to others. It is a fact often commented upon that the small *entrepreneur* who is out of debt takes pride in his condition and usually avoids investments or speculations which would make the use of credit necessary to him, while one who has once become heavily encumbered becomes callous to the inconveniences caused by his indebtedness, and often does not hesitate to plunge deeper if possible; moreover, the latter will become reckless in his speculations, because if he is successful the gain is his, and if he loses, much of the loss falls on his

creditors. Now, as has before been pointed out, an exceptionally energetic man can sometimes attain prosperity even though he starts out with a heavy debt incurred for 'purchase money, and if he meets with good fortune he can gradually free himself from his burden. But under the prevailing conditions, the man of just ordinary ability, who is owing a heavy debt, will be more likely than not to allow it to grow continually larger; and not only will the effect of the debt be seen in making more grievous the ill effects of losses or misfortunes, but when a man's credit is exhausted or badly strained he will often be unable to avail himself of opportunities which he would otherwise have had to make profits, as for instance when he is forced to sell his grain at a low price when, had he been able to wait on the markets, he could have realized a 'much larger sum.

Perhaps the effect of his debt on a heavily mortgaged man may be summed up by saying that in order to use the money profitably, the borrower must be a man of normal ability; if his qualities are exceptionally good he may profit greatly by his loan; but if they are under the average, or if fortune should go against him, his debt will almost surely operate to increase his troubles. Any man who undertakes farming in Nebraska at the present day requires, in order to be assured of success, at least three things,—first, that he have some little capital, second, that he possess good business qualifications, and third, that he escape any extraordinary misfortunes. If he lack any one of these, or is seriously deficient in it, his success will be much retarded, if not rendered entirely impossible. And though the same statement would probably be true of almost any business enterprise, yet it seems clear from the facts that it applies with especial emphasis to the western agriculturalists of the present time.

Thus far what has been said in discussing the various economic influences at work has been said mainly from the point of view of the unsuccessful farmers. The term unsuccessful must not only be taken to include those who have failed completely owing to causes of a general nature or of



nature not clearly personal (for these latter causes have been excluded from our consideration), but it also includes the many who are still struggling for success, though badly embarrassed by debt. In brief, it comprises all those who have to a greater or less extent fallen short of the measure of success which their efforts seemed to deserve. Nor should it be forgotten that to the men classed as successful the same conditions have applied as to the unsuccessful, though not with equal results; for the successful ones are those whose energy or business ability or external advantages have been so great as to enable them to overcome in some degree, at least, all the unfavorable influences.

And now let us see what this measure of success is which the more successful in the township have attained. The largest landowner among them has 480 acres of land, while only four or five, all told, own over 240 acres apiece. Of those who have more than one quarter section of land, the great majority have had some exceptional advantage, such as a capital greater than the average, when they first came to the country, or external help of some kind, as land or money received by inheritance, or they have been men of exceptional thrift. In no case can the improvements be called more than comfortable, and it is rare to find an exceptionally good house without noticing that the outbuildings have to some extent been sacrificed to it, or *vice versa*. In few cases will the income from his farm support the owner after he has retired from active life. To the writer it seems that the condition of the successful farmers more strongly indicates the disadvantages under which they have labored than the condition of the more or less unsuccessful ones. For here we see good business men who have carefully labored for many years, and who come now toward the close of their active careers, feeling fortunate if their farms are unencumbered and their property sufficient to support them in their old age, while they live with their descendants who have taken their places in the active operations of agriculture. It is true these men have had little inherited wealth



behind them, but they are among the men who have helped to build up a new country, and who, it would seem, should have as much share in the prosperity of the new territory they have helped to open, as those who cast their lot with the towns and cities.

The farmer who has once become fairly well equipped, and who is not burdened with a heavy debt, has, it is true, certain advantages which make his lot in some ways quite desirable. If not in debt, he feels sure of a comfortable living even in poor years, and a small deficit is easily tided over. Moreover, he is in a position to make advantageous use from time to time of a small line of credit for temporary purposes; and, being able to get money at very low rates, may sometimes be able to make very profitable investments.

As compared with the pioneer farmer of twenty years ago, the farmer of to-day requires a much larger capital, and in consequence the cost of production of the grain that he raises is higher. Not only is it found necessary to give the land slightly more cultivating, but also there must be figured into the cost the interest on the investment in the land, which was very small in the early days, but is of considerable importance now. Then the standard of living, by which each family gauges its expenditure, is much higher than formerly, and the enforced economies of the pioneer period cannot be practiced, and indeed ought not to be demanded or expected. The markets are no better to-day than before. In short, if the farmer of to-day expects to achieve the same success as the pioneer achieved, he must, except where good fortune and the possession of unusual personal qualities are combined, have capital in sufficient amount to offset the free land and the low cost of living of the pioneer period.

## V.—APPENDICES.

### A. LAND LAWS AND TECHNICAL EXPRESSIONS.

In order to avoid the necessity of frequent digressions throughout the text to explain the ownership of the land at the time settlement began, and the ways in which the settler could acquire title to farming lands, it has been thought best to gather all those matters, together with some related ones, into an appendix, to which reference could be made from the body of the paper.

When the lands now included within the borders of the state of Nebraska passed out of the hands of the Indians and into the possession of the Federal government, the latter proceeded to have land surveyed as fast as the rate of settlement seemed to warrant. Without going into the details of this survey, it may be said that the main subdivisions created were townships, each six miles square; that the townships were divided into sections of approximately one square mile each; and these in their turn into quarter and quarter-quarter sections. The disposition of the land by the government was on the basis of these last subdivisions. The survey was completed in Hall county in July and August, 1866, and in 1869 a U. S. land office was established at Grand Island, the county seat.<sup>1</sup>

The federal government gave to the state of Nebraska sections sixteen and thirty-six in every township for a school endowment; it also gave to the Union Pacific Railroad, as to the other roads built in the earlier days, a land grant consisting of all the alternate sections for ten miles on each side of the railroad track. As Harrison township lies within this "ten mile limit," all of the odd-numbered sections within the

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<sup>1</sup> For a concise account of this and the following matters, see Sato's *History of the Land Question in the U. S.*, Johns Hopkins University Studies, Vol. IV., Nos. 7-9.

town were the property of the railroad at the time our interest in the land begins, and since the two sections sixteen and thirty-six belonged to the state, there were only sixteen square miles in the township subject to entry under the federal laws. We have so frequently to make use of this classification of the lands that the classes are referred to respectively as "railroad land," "school land," and "government land."

There were various ways in which the settler could acquire lands on which to begin his farming operations. If he desired to take government land, he had during most of the time choice of pre-emption, homestead, or timber-claim. The pre-emptor had to improve his land and actually reside upon it; he was allowed thirty-three months in which to make final proof in compliance with the law, and pay the \$2.50 an acre which the government charged him for the land. The "homesteader" had to reside on his land for five years before he could make final proof and gain full title. But he was allowed, if he so desired, to "commute his entry" after six months residence, by paying the full legal price for the land. This latter provision meant practically that his homestead was changed into a pre-emption. A timber-culture entry gave the claimant title to the land after eight years, on condition that he plant on it and keep in good condition a certain number of acres in timber.

In 1872 one could pre-empt one hundred and sixty acres of land within the township, or could homestead eighty acres. By the act of March 3, 1873, he could take in addition one hundred and sixty acres as a timber claim. Two years later, the soldiers' additional homestead act of March 3, 1875, gave former soldiers the right to homestead one hundred and sixty acres, which right was extended to all persons capable of taking land at all, on July 1, 1879.

If, owing to arrival in later years or for any other reason, the settler wished to purchase railroad land, he had to pay for it in most cases from four to six dollars an acre, but was given long time, usually ten years, the principal to be paid up in yearly instalments.

School land was for a long time leased by the state, but has in comparatively recent years been sold to lessees on the appraisement of residents of the county, most of it at seven dollars an acre.

The state still holds unsold one quarter section within the township. The general government retains the title to three pieces of land, containing in all three hundred and twenty acres; this fact being due to the delay of the occupants in complying with the conditions required as a preliminary to the transfer of the legal title.

Certain technical terms that are used in this connection throughout the paper perhaps stand in need of explanation. An "entry" is the settlement upon government land in one of the three methods described above. "Proving up" is the expression commonly used for completing the proof that the government requirements have been fulfilled. It is a necessary preliminary to the transfer of title to the settler. A "soldiers' declaratory statement" is a paper stating that the signer had been a soldier and intends to make a regular entry for a designated piece of land. It is one of the few entries that can be made by proxy, and serves as a bar to other entries upon the land for six months after it has been filed.

In early years settlers now and then abandoned their claims; the land would then simply lie open for a new entry by the first person who chose to take it. If an occupant sold his claim before having acquired full title, he would enter a formal "relinquishment" on the records of the land office, and the purchaser would then make a new entry for the land. In order to avoid taxation, or sometimes for other reasons, it was not uncommon when the time for "proving up" had almost expired, for a settler to have his own claim canceled by relinquishment. His right as to the kind of entry which he had before made was now exhausted, but he could immediately make a new entry of some other kind, and thus retain his interest in the land. He could thus continue till he had exhausted his rights under the land laws, which up to '79 allowed the settler to take in the aggregate 400 acres, and

after that date 480 acres. One or more of these causes will explain the fact, frequently observed, of several successive entries upon the same tract of land.

The progress of the paper shows the importance of classifying all the settlers into those who took land from the government, those who purchased of the railroad company, and those who purchased of other former owners. It has not been found necessary to make further classification of those who took government land, according to the kind of claim which they chose, because no pre-emptions taken by resident farmers were paid up, and whether a homestead or a timber claim was taken the land was equally a gift from the government to the taker. The reason why a distinction is drawn between purchasers from the railroad company and other purchasers is because of the difference of the terms of sale in the two cases. For the sake of simplicity the few purchasers of school land are, except when given a special heading, included under the third class above, *i. e.*, the purchasers from other than the railroad company.

There are included under the name of takers of government land all those who made entries direct from the government, even though they had paid former holders to relinquish claim upon the lands in order that they, the newcomers, might take it; and this plan is adopted because the newcomer had to carry out all the government requirements just as if he were one of the earliest settlers. On the other hand, those who bought from other settlers contracts for the sale of railroad land are included with the purchasers from former owners rather than with the purchasers from the railroad company, because the burden to which they subjected themselves was exactly the same as it would have been if they had purchased lands to which the title was already complete.

#### B. COMPARISON OF THE FIGURES OF THIS PAPER WITH THOSE SHOWN BY THE CENSUS OF 1890.

The United States Census figures for the state of Nebraska show that of all taxed acres, 58.13 per cent were mortgaged;



that the average amount of debt in force per assessed acre was \$3.74, and per mortgaged acre was \$6.43; that the average value of an acre (estimated) was \$14.45, and that the total amount of the mortgages represented 44.47 per cent of the total value of the acres mortgaged; also that the average amount of debt to each mortgage in force against acres was \$844. Now these figures formed the average of the mortgages in both the older settled and the very recently settled portions of the state. Since the average value of an acre is as low as it is, we may conclude that the number of mortgages from newer parts of the state was comparatively very large.

The figures brought out in this paper showing the percentage of acres which are mortgaged and the percentage of the value of mortgaged acres represented by the debt in force against them, are very nearly the same as those shown by the census, but corresponding to the fact that in the present study the value of the land per acre is much higher than in the census figures, we find that the average debt per farm and the average debt per acre are in almost the same proportion higher. These facts help to show the relationship which exists between the facts shown in this paper and the average facts for the state as a whole.

IX-X

HISTORY OF SLAVERY IN CONNECTICUT



JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History.—*Freeman*

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ELEVENTH SERIES

IX-X

HISTORY OF SLAVERY IN CONNECTICUT

BY

BERNARD C. STEINER, PH. D.

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## CONTENTS.

	PAGE
INTRODUCTION . . . . .	7
PERIOD I.—1636-1774.—Indian Slavery . . . . .	9
Colonial Legislation on Slavery . . . . .	11
Trials Concerning Slaves in Colonial Days . . . . .	17
Social Condition of Slaves in Colonial Times . . . . .	20
PERIOD II.—1774-1869.—Slaves in the Revolution . . . . .	24
Opinions of the Forefathers on Slavery . . . . .	28
State Legislation on Slavery . . . . .	30
Cases Adjudicated in the Higher Courts with Reference to Slavery . . . . .	37
Miss Prudence Crandall and her School . . . . .	45
Nancy Jackson vs. Bulloch . . . . .	52
The Negroes on the "Amistad" . . . . .	56
Growth of the Anti-Slavery Spirit . . . . .	68
Social Condition of Slaves . . . . .	78
Appendix . . . . .	83



# HISTORY OF SLAVERY IN CONNECTICUT.

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## INTRODUCTION.

Few questions have been more interesting to the American people than slavery, and the number of works which have appeared upon the subject has been proportional to the interest aroused. The slavery of negroes has been discussed from almost every point of view, and yet the influence of slavery upon individual States of the Union and its different history and characteristics in the several States have not received the attention they deserve. There have been two able works dealing with this branch of the subject, tracing thoroughly the course of the institution of slavery in the two States of Massachusetts and Maryland.<sup>1</sup> As Massachusetts was the first State of the original number to free her slaves, and as Maryland was a typical Border State, these monographs, apart from their accuracy and completeness, have been valuable contributions to the study of slavery in the separate States, but they stand almost alone.

It has been the intention of the writer to take up the history of slavery in his native State—Connecticut. The development of slavery and the conditions surrounding it there were not greatly different from those existing in the larger State immediately to the north, yet there were certain phases of the “peculiar institution” in Connecticut which yield a

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<sup>1</sup> I allude to Dr. Geo. Moore's “Notes on Slavery in Massachusetts” and Dr. J. R. Brackett's “Negro in Maryland.” Tremain's “Slavery in the District of Columbia,” in Univ. of Neb. Studies, and Ingle's “Negro in the District of Columbia,” in J. H. U. Studies, are noteworthy. See also Morgan's brief account of “Slavery in New York” in the Am. Hist. Ass. Papers. I might add Ed. Bettle, “Notices of Negro Slavery as Connected with Pennsylvania,” Vol. I., p. 365 ff., Penn. Hist. Soc. Memoirs,

noteworthy return to the student.<sup>1</sup> Though the formal abolition of slavery in Connecticut did not take place until 1848, there had been practically very few slaves in the State since 1800, and the treatment of the slave had been always comparatively mild and lenient. In the history of the opinion of the people in regard to slavery, we shall find two fairly well marked-off periods, under each of which we shall treat separately the legal, political, and social aspects of slavery. The first of these periods extends from the settlement of the colony until the passage of the Non-importation Act of 1774, and is characterized by a general acquiescence in the existence of slavery and a somewhat harsh slave code.

The second period, extending from 1774 to 1861, is marked by the diminution and extinction of slavery. It might be divided into two subdivisions. The first subdivision extends from October, 1774, to the rise of the Abolitionists, about 1830, and is characterized by the gradual emancipation of the slaves and amelioration of their condition.

In the second subdivision, lasting from about 1830 till the Civil War, we find the formal abolition of slavery and the rise of the slavery question as a political issue, culminating in the resistance to the Fugitive Slave Act, and ending in the Act of 1857. The period closes with the acceptance of the Fifteenth Amendment in 1869.

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<sup>1</sup> The author regrets that he was unable to consult Dr. Wm. C. Fowler's "Historical Status of the Negro in Connecticut" until these pages were passing through the press. Any new matter therein contained has been embodied in foot-notes, as far as possible. The labor and research Dr. Fowler bestowed on his paper make it very valuable. It appeared in Dawson's Historical Magazine for 1874, Vol. XXIII., pp. 12-18, 81-85, 148-153, 260-266.

## PERIOD I.—1636-1774.

### INDIAN SLAVERY.

In Connecticut, as in many other States, the first slaves were not of African race, but were aborigines, taken in battle and sold as slaves, in the same manner as the Anglo-Saxon forefathers of the early settlers had sold the captives of their spear, over a millennium before. After the fierce and bloody Pequod War, the colonists found on their hands a number of captive Indians, whose disposition formed a pressing question. It did not take long to decide it. To the shame of the conquerors, "Ye prisoners were devided, some to those of the River [Connecticut] and the rest to us" of Massachusetts.<sup>1</sup> Of those taken by the latter, they sent "the male children to Bermudas, by Mr. William Pierce, and the women and maid children are disposed about in the towns. There have now been slain and taken, in all, about 700." Connecticut's disposition of her share was, doubtless, much the same as that described above. In the same spirit, the Articles of Confederation of the United New England Colonies, in which both Connecticut and New Haven were included, when drawn up on May 19, 1643, provided that "the whole advantage of the warr (if it please God to bless their Endeavours), whether it be in lands, goods, or *persons*, shall be proportionally divided among the said Confederates."<sup>2</sup>

The Articles of Confederation also provided "that, if any servant run away from his master into any of these confederated jurisdictions, that, in such case, upon certificate of one magistrate in the jurisdiction of which the said servant fled, or upon other due proof, the said servant shall be delivered, either to his master or any other, that pursues and brings such certificate or proof." This was the first fugitive slave law in force in Connecticut.

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<sup>1</sup> Mass. Hist. Soc. Coll., Series IV., Vol. III., p. 360.

<sup>2</sup> Plymouth Col. Rec., Vol. IX., p. 4.



Since it was found that certain Indian villages harbored fugitive Indians, the Confederation, on Sept. 5, 1646, decided that such villages might be raided and the inhabitants carried off, women and children being spared as much as possible, and added, to its eternal shame, that "because it will be chargeable keeping Indians in prison and, if they should escape, they are liable to prove more insolent and dangerous after, it was thought fit that upon such seizure...the magistrates of the jurisdiction deliver up the Indians seized to the party or parties endamaged, either to serve or to be shipped out and exchanged for negroes, as the cause will justly bear." The Connecticut Code of 1646, following this resolve in its language, recognizes Indian and negro slavery.<sup>2</sup>

The Confederation, in 1646, took active part in endeavoring to make Gov. Kieft of New Netherlands return "an Indian captive liable to publicke punishment fled from her master at Hartford" and "entertained in your house at Hartford and, though required by the magistrate," she was "under the hands of your agent there denyed, and was said to have been either marryed or abused by one of your men." "Such a servant," they say, "is parte of her master's estate and a more considerable part than a beast; our children will not longe be secure if this be suffered." This last sentence clearly shows the outcropping of the patriarchal idea. Kieft refused to give her up, and said, "as concerns the Barbarian hand-made," it is "apprehended by some, that she is no slave, but a freewoman, because she was neither taken in war, nor bought with price, but was in former time placed with me by her parents for education."<sup>3</sup> By the Inter-Colonial Treaty of Sept. 19, 1650, the provision of the Articles of Confederation, in regard to fugitives, was extended to include the intercourse of the New Englanders and the Dutch.<sup>4</sup> King Philip's War again threw many Indian captives into the settlers' hands and,

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<sup>1</sup> Hazard, II., p. 63.

<sup>2</sup> Title "Indians." Conn. Rec., I., 531. Not in Revision of 1715.

<sup>3</sup> Plymouth Records, IX., 6, 64, 190.

<sup>4</sup> Hurd, "Law of Freedom and Bondage in the U. S.," I., 269.

on May 10, 1677,<sup>1</sup> the General Court decreed, "for the prevention of those Indians running away, that are disposed in service by the Authority, that are of the enemie and have submitted to mercy, such Indians, if they be taken, shall be in the power of his master to dispose of him, as a captive by transportation out of the country." The syntax of the enactment is confused, its cruelty is clear.

The number of Indian slaves seems to have gradually decreased from death, intermarriage with negroes, and emancipation, though as late as May 1, 1690, Gov. Leisler of New York met with the Commissioners of Massachusetts, Plymouth, and Connecticut, and they all covenanted that in the contemplated Indian war, "all plunder and captives (if any happen) shall be divided to the officers and soldiers, according to the custom of War."<sup>2</sup>

Though the colonists entertained no doubt of their right to sell Indian captives, better Puritan nature revolted against the idea of perpetual hereditary slavery, and, as early as 1722, we find doubts expressed as to the status of the child of an Indian slave.<sup>3</sup>

Dr. Fowler states that Indian slaves were not considered as valuable as negroes.

Further remarks as to legislation in regard to Indian slaves will be found in a subsequent section.

#### COLONIAL LEGISLATION ON SLAVERY.

The earliest law on any of Connecticut's statute-books in regard to slavery is a quotation from Exodus xxi. 16, placed tenth among the Capital Laws of Connecticut, on Dec. 1, 1642, "If any man stealeth a man or mankind, he shall be put to death." This, however, was understood, of course, only to include in its protection persons of white race.

When or how negro slavery was introduced into Connecticut, we have no records to show. "It was never directly

<sup>1</sup> Conn. Col. Rec., II., 308.

<sup>2</sup> N. Y. Doc. Hist., II., pp. 134, 157.

<sup>3</sup> Trumbull's "Connecticut," Vol. I., p. 417. Fowler, p. 152.

established by statute," says the editor of the Revision of the State's Laws in 1821,<sup>1</sup> "but has been indirectly sanctioned by various statutes and frequently recognized by courts, so that it may be said to have been established by law."<sup>2</sup> Few slaves were imported at first, and, on May 17, 1660, we find the first reference to negroes in the Connecticut Records.<sup>3</sup> Then the distrust of bondmen and the fear of treachery in slaves, nearly always shown by masters, is revealed in the General Court's order "that neither Indian nor negar servants shall be required to train, watch, or ward in the Colony."

The number of negroes was "few," not above thirty, only two of whom were christened, in 1680,<sup>4</sup> and not until ten years later had they sufficiently increased so as to call the attention of the legislators to their regulation. Connecticut began her black code in October, 1690,<sup>5</sup> by passing several measures, providing that a "negro, mulatto, or Indian servant" found wandering out of the bounds of the town to which he belonged, without a ticket or pass from an Assistant, or Justice of the Peace, or his owner, shall be accounted a runaway and may be seized by any one finding him, brought before the next authority and returned to his master, who must pay the charges. Even a ferryman, transporting a slave without a pass, was liable to a penalty of twenty shillings for each offense.<sup>7</sup> A free negro without a pass must pay the costs if stopped and brought before a magistrate.

The last two laws were repealed in October, 1797.<sup>8</sup>

The next statute, save one, referring to slaves was passed

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<sup>1</sup> Probably Swift, author of the well-known "System."

<sup>2</sup> Revision of 1821, Title 93, Sec. 7, note.

<sup>3</sup> Dr. Fowler ("Hist. Status," p. 12) says negro slaves were in New Haven Colony in 1644.

<sup>4</sup> Conn. Col. Rec., I., 349.

<sup>5</sup> They came sometimes three and four a year from Barbadoes. Conn. Col. Rec., III., p. 298. Answer to Queries.

<sup>6</sup> Conn. Col. Rec., IV., p. 40. Revision of 1808, Title CL., Ch. I., Secs. 1-4.

<sup>7</sup> This amount was later changed to \$3.34.

<sup>8</sup> Hurd, II., p. 42.

in 1703.<sup>1</sup> This shows clearly the survival in colonial days of the *potestas* of the *pater familias* coming down from the absolute dominion of the house-father in ancient times. It prohibits any "licensed innkeeper, victualler, taverner, or retailer of strong drink" from "suffering any one's sons, apprentices, servants, or negroes to sit drinking in his house, or have any manner of drink there, without special order from parents or masters."

Slaves seem now, for some time, to be repressed by laws continually growing harsher. In May, 1708,<sup>2</sup> the General Court, taking into consideration that "divers rude and evil-minded persons, for the sake of filthy lucre, do receive property stolen by slaves," and desiring to prevent this and to better govern the slaves, decreed that any one buying or receiving from slaves property without an order from their masters, must return the property and double its value in addition, or, if he has disposed of the original property, treble its value, and, if he will not do this, he is to be whipped with not over twenty stripes. The slaves caught in theft were to be whipped with not over thirty stripes, whether the receivers of the goods from them were found or not. Further, "whereas negro and mulatto servants or slaves<sup>3</sup> are become numerous in some parts of this Colonie and are very apt to be turbulent and often quarrelling with white people to the great disturbance of the peace," it is enacted that a negro disturbing the peace or offering to strike a white person, is to be subject to a penalty of not over thirty stripes.

In spite of these harsher laws, emancipation was becoming somewhat common, and the Colony feared that it would have to support negroes whose years of usefulness had been spent in work for their masters, and who were manumitted by them,

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<sup>1</sup> Conn. Col. Rec., IV., 438. A penalty of 10 shillings was to be imposed for a breach of this act. It does not seem to have been included in any of the revisions of the statutes.

<sup>2</sup> Conn. Col. Rec., V., p. 52. This was in force in 1808. Title CL., Ch. I., Sec. 5.

<sup>3</sup> Revision of 1750, p. 229.

when old and helpless. To prevent this, in May, 1702,<sup>1</sup> the legislature provided that slaves, set free and coming to want, must be relieved by the owners, their heirs, executors, or administrators. To this act a second one was added in 1711, providing that if the owners or their representatives refused to maintain such emancipated slaves, it should be the duty of the selectmen of the various towns to do so, and then to sue the owners, or their representatives, for the expense<sup>2</sup> incurred.

The terrible war between the South Carolinians and the Tuscaroras, ending with the overthrow of the latter, left a large number of Indian prisoners in the hands of the Carolinians, who shipped them as slaves to the other colonies. This importation of vengeful, warlike savages alarmed the people of Connecticut and led to the first steps towards prohibition of the slave trade. The Governor and Council met on July 8, 1715, and considering the fact that several have brought into the colony Carolina Indians, "which have committed many cruel and bloody outrages" there, and may draw off "our Indians," if their importation be continued, and so "much mischief" may follow, they decided to prohibit importation of Indian slaves, until the meeting of the Assembly, and to require each ship entering port with Indians on board to give bond of £50 to transport them from the colony in twenty days. Further, Indians brought into the colony hereafter are to be "kept in strictest custody," confined and "prevented from communicating with other Indians," unless owner give the same bond as above to remove them from Connecticut in twenty days.<sup>3</sup>

The next October, the General Court, copying a Massachusetts Act of 1712, made the prohibition of bringing in Indian slaves permanent, since "divers conspiracies, outrages, barbarities, murders, burglaries, thefts, and other no-

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<sup>1</sup> Conn. Col. Rec., IV., 375. A similar act to the same purpose was passed in May, 1703. Conn. Col. Rec., IV., 408. See p. 32.

<sup>2</sup> Conn. Col. Rec., V., 233. The whole was in the revision of 1808, Title CL., Ch. I., Sec. 11.

<sup>3</sup> Conn. Col. Rec., V., 516.



torious crimes at sundry times and, especially of late, have been perpetrated by Indians and other slaves,...being of a malicious and vengeful spirit, rude and insolent in their behaviour, and very ungovernable, the overgreat number of which, considering the different circumstances in this Colony from the plantations in the islands and our having considerable numbers of Indians, natives of our country,...may be of pernicious consequence."<sup>1</sup> The legislature decreed the forfeiture of all Indians hereafter imported, and the payment of a fine of £50 by shipmaster or other persons bringing Indians.

The preamble quoted above shows that this measure was not prompted by affection for the slaves, but by fear of them; but it was the beginning of the end—the first law restricting slaveholders' rights in Connecticut, to be followed by one and another of the same restrictive kind, until all men who trod the soil of the State were free.

The next law on the records was passed in May, 1723, and provided that a slave out of doors after 9 P. M., without order from master or mistress, might be secured and brought before a Justice of the Peace by any citizen and, if found guilty, should receive not over ten stripes, unless the master were willing to pay a fine of ten shillings<sup>2</sup> to release him. Any one who should receive such a slave must, on conviction, pay a like fine, half to the town and half to the informer.

The black code was completed by the act of May, 1730, declaring that a slave speaking such words as would be actionable in a free person, should be whipped, on conviction, with not over forty stripes and sold for the costs, unless the master were willing to pay them. However, there was a ray of justice in the provision of the law that the slave might make the same pleas and offer the same evidence as a free person.<sup>3</sup>

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<sup>1</sup> Conn. Col. Rec., V., 534. Fee of 2s. 6d. for registering slave, which must be done in twenty-four hours after arrival. The slave must be taken away within a month.

<sup>2</sup>Amount to be paid later changed to \$1.67. Conn. Col. Rec., VI., 391. Repealed by Ch. IV., Oct. 1797.

<sup>3</sup> Conn. Col. Rec. VII., 290. In Revision of 1750, p. 40.

From this time on, the more engrossing subjects of the struggle between the French and the colonists, and the growth of material prosperity seem to have thrust aside the topic of slavery from the legislative halls. For forty-four years we find few more laws.<sup>1</sup> It is true, however, that at the General Assembly in 1738, "it was inquired—whether the infant slaves of Christian masters may be baptized in the right of their masters, they solemnly promising to train them in the knowledge and admonition of the Lord; and whether it is the duty of such masters to offer such children and thus religiously to promise." To the great credit of the colonists, both these questions were answered affirmatively, and thus the devout Christians of Connecticut, preserving the solidarity of the family, unconsciously went back to the early Aryan custom, that the God of the house-father should be worshiped by all under his sway. The growth of free ideas,<sup>2</sup> the coming of the Revolution, the increase of the slaves, "injurious," it was thought, to the poor and "inconvenient"—for the best motives are apt to be mixed of good and evil—led, in October, 1774, to the enactment of the law that "no Indian, negro, or mulatto slave shall at any time hereafter<sup>3</sup> be brought or imported into this State,<sup>4</sup> by sea or land, from any place or places whatsoever, to be disposed of, left, or sold within the State," and any offender against this law should pay £100.<sup>5</sup> So the State set herself as resolutely against the slave trade, as she was destined to do later against slavery itself.

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<sup>1</sup> In 1727 it was enacted that masters and mistresses of Indian children were to use their utmost endeavors to teach them to read English, and to instruct them in the Christian faith. Reprint of 1737, p. 339. Hurd, I., p. 272.

<sup>2</sup> Conn. Col. Rec., XIV., 155. May, 1773, "Negro's memorial postponed to October." Nothing more of it.

<sup>3</sup> Conn. Col. Rec., XIV., 329.

<sup>4</sup> Note the early use of the word.

<sup>5</sup> Later the sum was fixed at \$334. By act of October, 1798, such prosecutions must be begun in three years. Revision of 1808, Title CI., Ch. III. By Revision of 1821, Title 93, Sec. 5, fine put at \$350.

A good review of the legal condition of the slave in these days is given by Judge Reeves,<sup>1</sup> who, "lest the slavery, which prevailed in this State, be forgotten," mentioned "some things that show that slavery here was very far from being of the absolute rigid kind. The master had no control over the life of his slave. If he killed him, he was liable to the same punishment, as if he killed a freeman. The master was as liable to be sued by the slave, in an action for beating, and wounding, or for immoderate chastisement, as he would be if he had thus treated an apprentice. A slave was capable of holding property in character of devisee or legatee. If the master should take away such property, his slave would be entitled to an action against him by his *prochein ami*. From the whole, we see that slaves had the same right of life and property as apprentices, and that the difference betwixt them was this, an apprentice is a servant for time and the slave is a servant for life."<sup>2</sup>

#### TRIALS CONCERNING SLAVES IN COLONIAL DAYS.

I have been able to obtain but few recorded cases in which the question of freedom or slavery came up in the courts

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<sup>1</sup> Law of Baron and Femme, pp. 340-1. Reeves says, "If a slave married a free woman, with the consent of his master, he was emancipated; for his master had suffered him to contract a relation inconsistent with a state of slavery." Dane's Abridgment, II., p. 313, says, "In Connecticut the slave was, by statute, specially forbidden to contract." *Vide* Hurd, II., p. 42.

<sup>2</sup> In the Code of 1650, under the title, "Masters, Sojourners, Servants," the last named are forbidden, under penalty, to trade without permission of their masters, and provision is made for their recapture by public authority if they run away. Refractory servants are to be punished by extension of their time of service. The lawmakers, probably, had in mind the class known as indentured servants, or redemptioners, in formulating this act. (Conn. Rec., I., 539.) In the Revision of 1715, title "Debts," it was provided that a debtor without estate "shall satisfy the debt by service, if the creditor shall require it, in which case he shall not be disposed in service to any but of the English nation," to prevent the sale of the debtor to the French in Canada. Delinquents under a penal law were, by an act of 1725, to be disposed of at service to any inhabitant of the Colony "to defray the Costs." (Reprint 1737, p. 314.)

during this first period. In the end of 1702 or beginning of 1703, a slave, Abda, belonging to Capt. Thomas Richards of Hartford, escaped from his master and was succored by Capt. Joseph Wadsworth of Hartford, who, on Feb. 12th, 1703, opposed the constable in executing a writ of arrest on Abda. This early fugitive slave case was brought before the Governor and Council on Feb. 25.<sup>1</sup> They recommended the County Court to examine the case. Apparently Abda brought an action on the case against Mr. Richards, as a counter suit, claiming damages of £20 from his master, "for his unjust holding and detaining the said Abda in his service as his bondsman, for the space of one year past." The verdict was for £12 damages, "thereby virtually establishing Abda's right to freedom," which he, a mulatto, seems to have claimed largely on account of his white blood.<sup>2</sup>

Mr. Richards pressed the case further and, in May, 1704, obtained from the General Court an order to have a hearing before it in October, on his petition concerning Abda.<sup>3</sup> At that time the case was brought up and the fugitive was returned to his master, as Gov. Saltonstall said, "according to the laws and constant practice of this Colony and all other plantations (as well as by the civil law) such persons as are born of negro bondwomen are themselves in like condition, *i. e.* born in servitude.<sup>4</sup> Nor can there be any precedent in this Government, or any of Her Majesty's plantations, produced to the contrary and, though the law of this Colony doth not say that such persons as are born of negro woman and supposed to be mulattoes shall be slaves (which was needless, because of the constant practice by which they are held as such), yet it saith expressly that no man shall put away or make free his negro or mulatto slave, etc., which

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<sup>1</sup> Conn. Col. Rec., XV., 548.

<sup>2</sup> Moore's "Notes on Slavery," p. 112, quoting J. H. Trumbull in *Conn. Courant*, Nov. 9, 1850. Fowler, "Hist. Status," pp. 14-16.

<sup>3</sup> Conn. Col. Rec., IV., 478. Papers in Miscellaneous, II., pp. 10-21.

<sup>4</sup> This following as a precedent the Roman Law maxim, "*Partus sequitur ventrem*," at this early day in New England is noteworthy.

undeniably shows and declares an approbation of such servitude, and that mulattoes may be held as slaves within this government.”<sup>1</sup>

A later fugitive slave<sup>2</sup> we find advertised for in the New York *Mercury* on July 28, 1760, and the advertisement has many little touches which go to show how slaves lived and were treated. “Run away from Abraham Davenport of Stamford in Conn., the 4th of June instant, a Mulatto Man Slave named Vanhall, aged 31 years, about 5 feet 4 or 5 inches high, very swarthy; has a small Head and Face, a large Mouth, and has an odd Action with his Head, when talking with any Person; has very long Arms and large Hands for a Person of his size and has an old Countenance for one of his Age; his Hair, like others of his kind was but lately cut off; was brought up to the Farming business, is a lively active Fellow and pretends to understand the Violin. Had on, when he went away, a Felt Hat, a Grey Cut Wig, a light homespun Flannel lappelled Vest, which had been lined with fine old Cotton and Linnen Ticken, Doeskin Breeches, he took several pairs of Stockings and one or two pairs of Shoes, a Violin and a small Hatchet, &c., and ’tis probable he might change his Cloaths. Whoever takes up and secures said Mulatto, so that his Master may have him again, shall receive £5. Reward, and reasonable charges paid.”

Late in Colonial times,<sup>3</sup> we find Hagar, a New London negress, appearing before the Governor and Council and pleading that she and her children were lawfully freed by her former master, James Rogers, and so her refusal to yield herself as a slave to James Rogers, Jr., his grandson, was justified. The decision was that she should give bond to prove her freedom at the next County Court and be secured from molestation in the meanwhile.

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<sup>1</sup> Moore, Notes on Slavery, pp. 24-25, quoting J. H. Trumbull's "Hist. Notes," etc., No. VI.

<sup>2</sup> Am. Hist. Mag., XIII., p. 498. Vide Fowler, "Hist. Status," p. 148.

<sup>3</sup> Conn. Col. Rec., XV., p. 582.



## SOCIAL CONDITION OF SLAVES IN COLONIAL TIMES.

On this topic comparatively little can be found. Each large<sup>1</sup> village had its negro corner in the Meeting House gallery and in the graveyard. In the larger towns, such as Norwich, New Haven, Hartford, and New London, there were several hundred negroes. They were for the most part indulgently treated and admitted, at least in many places, into the local churches as fellow-members with the white population.<sup>2</sup> They must, however, occupy their allotted gallery seats, which in Torrington were boarded up so that the negroes could see no one and be seen by none. If they attempted to sit elsewhere, or refused to go to church if made to sit there, excommunication was apt to follow.<sup>3</sup>

Among early negro slaves recorded in Connecticut are some belonging to John Pantry of Hartford in 1653, and one Cyrus, belonging to Henry Wolcott, Jr., of Windsor, and rated at £30 in his inventory.<sup>4</sup> Miss Caulkins states that early in the eighteenth century slaves were worth from 60 shillings to £30, and that later the best were valued as high as £100. She instances the purchase of a negro boy by Rev. William Hart of Saybrook in 1749 for £290, Old Tenor, about equal to £60 in coin.<sup>5</sup> In 1708, and probably the same state of things continued later, we learn the negroes mostly came from "neighboring governments, save some times half a dozen a year from the West Indies"; but "none ever imported by the Royal African Company or separate traders."<sup>6</sup>

<sup>1</sup> In 1726 Suffield voted Rev. Mr. Devotion £20 towards purchasing negroes. Trumbull's "Hartford County," II., p. 406.

<sup>2</sup> *E. g.* Phebe, colored servant of Joel Thrall, joined Torrington Church, 1756. Orcutt's "Torrington," p. 211.

<sup>3</sup> Jacob Prince, a free negro, was so excommunicated in Goshen. Orcutt's "Torrington," p. 218.

<sup>4</sup> 1680, slaves sold at £22. Conn. Col. Rec., III., 298.

Stiles, "Ancient Windsor," p. 489, notices an early deed of sale, dated 1694, from a Bostonian to a Windsor man, for a negro. Twenty-one negroes died in South Windsor from 1736 to 1768, of which number eleven belonged to the Wolcott family.

<sup>5</sup> Hist. of Norwich, p. 328. *Vide* Fowler, "Hist. Status," p. 148.

<sup>6</sup> Conn. Col. Rec., XV., 557.

For the most part, only one or two negroes were owned by any person. In some parts of the State, as at Waterbury,<sup>1</sup> we find it customary for the clergymen to have two slaves, a man and a woman. Occasionally, however, more were owned by a wealthy man, as in the case of Capt. John Perkins of Hanover Society,<sup>2</sup> Norwich, who left fifteen slaves by his will in 1761. The slaves were generally kindly treated and were docile, though we hear of the death of a man in 1773 from lockjaw, caused by a bite in the thumb by a young slave he was chastising.<sup>3</sup> The majority, however, could show much more amicable relations. For example, Mingo,<sup>4</sup> in Waterbury, who, about 1730, when a boy, was hired out by his master to drive a plow, later to work with a team and, 1764, at his master's death, was allowed to choose which son he would live with. He chose to live with the one who kept the old homestead and remained there until he began keeping a tavern, when he left and went to another son's. He had a family, and left considerable property at his death in 1800. Indeed, as early as 1707, we have evidence of the possession of property by a negro, for, in October of that year, Lieut. John Hawley, administrator to the estate of John Negro, was granted power by the General Court to sell £10 worth of his land, it appearing from the Fairfield County Probate Records that he owed that amount more than his moveables would pay.<sup>5</sup>

Towards the close of this period, the reasonableness and justice of holding slaves began to be questioned and eman-

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<sup>1</sup> Bronson's "Waterbury," 321. <sup>2</sup> Caulkins' "Norwich," p. 328.

<sup>3</sup> Caulkins' "Norwich," p. 329. Godfrey Malbone of Brooklyn owned 50 or 60 slaves. Fowler, p. 16.

<sup>4</sup> The first negro there. Bronson's "Waterbury," p. 321. He also refers to Parson Scovil's Dick, brought from Africa when a boy and sold several times, with the understanding he could return when he pleased. He left some property at his death in 1835, aged 90. Also to I. Woodruff of Westbury, who owned an Indian woman till her death in 1774. In Wintonbury (Bloomfield) there were probably not over a dozen slaves in all in colonial times. In Bristol a few of the farms were cultivated by slave labor, and one family owned three negroes. Trumbull's "Hartford County," II., pp. 35, 51.

<sup>5</sup> Conn. Col. Rec., VI., 35.

cipations, "from a conscientious regard to justice," begin to appear. One man in Norwich not only freed three slaves, but, "as a compensation for their services, leased them a very valuable farm on very moderate rate."<sup>1</sup> That section of the State seems to have been considerably stirred on this question, and in the *Norwich Packet*, July 7, 1774, we find an anti-slavery appeal of sufficient vigor to warrant quotation in full:

"To all you who call yourselves Sons of Liberty in America, Greeting:

"My Friends, We know in some good measure the inestimable value of liberty, But were we once deprived of her she would then appear much more valuable than she now appears. We also see her, standing as it were, tiptoe on the highest bough ready for flight. Why is she departing? What is it disturbs her repose? Surely, some foul monster of hideous shape and hateful kind, opposite in its nature to hers, with all its frightful appearances and properties, iron hands and leaden feet, formed to gripe and crush, hath intruded itself into her peaceful habitation and ejected her. Surely this must be the case, for we know oppositions can not dwell together. Is it not time, high time to search for this Achan? this disturber of Israel? High time, I say, to examine for the cause of those dark and gloomy appearances that cast a shade over our glory, and is not this it? Are we not guilty of the same crime we impute to others? Of the same facts, that we say are unjust, cruel, arbitrary, despotic, and without law in others? Paul argued in this manner—'Thou that teachest another, teachest thou not thyself? Thou that preachest a man should not steal, dost thou steal? Thou that makest thy boast of the law, through breaking the law dishonorest thou God?' And may we not use the same mode of argument and say—We that declare, and that with much warmth and zeal, it is unjust, cruel, barbarous, unconstitutional, and without law to enslave, *do we enslave?* Yes, verily we do! *A black cloud witnesseth*

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<sup>1</sup> Caulkins' "Norwich," p. 329.

*against us and our own mouths condemn us!* How preposterous our conduct! How vain and hypocritical our pretences! Can we expect to be free, so long as we are determined to enslave? (Signed) Honesty."<sup>1</sup>

Before we turn from Colonial times,<sup>2</sup> the fact is worthy of note that, though "redemptioners" were not common in Connecticut, white men were often bound out to service for a term of years, as in other colonies. We find in 1670 a man sold to the Barbadoes for four years as a slave, for "notorious stealing," "breaking up and robbing of" two mills and living "in a renegade manner in the wilderness." In 1756, a town pauper in Waterbury,<sup>3</sup> for stealing, was whipped and bound out to the plaintiff, as a servant, till the sum stolen and the costs be paid by his work, and the law on the statute-books was that "all single persons, who lived an idle and riotous life," might be bound out to service to pay the costs of prosecution.

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<sup>1</sup> The emancipation of slaves is not looked on by Dr. Fowler as greatly contributing to their welfare. He quotes an essay published in 1793 by Noah Webster, Jr.: "Nor does the restoration to freedom correct the depravity of their hearts. Born and bred beneath the frowns of power, neglected and despised in youth, they abandon themselves to ill company and low vicious pleasures, till their habits are formed: when manumission, instead of destroying their habits and repressing their corrupt inclinations, serves to afford the more numerous opportunities of indulging both. Thus an act of strict justice to the slave, very often, renders him a more worthless member of society." "Hist. Status of the Negro," p. 149.

<sup>2</sup> Dr. Fowler, "Hist. Status," pp. 12-13, calls attention to the fact that Louis Berbice, from Dutch Guiana, killed by his master, Gysbert Opdyck, commissary at the Dutch fort in Hartford, in Nov., 1639, was probably the first negro in Conn. He gives a list of the early owners of negroes and notes that in 1717, the Lower House passed a bill prohibiting negroes purchasing land, or living in families of their own, without liberty from the town.

<sup>3</sup> Bronson's Waterbury, p. 321.

## PERIOD II.—1774-1869.

### SLAVES IN THE REVOLUTION.<sup>1</sup>

The subject of using negroes in the army first came before the General Assembly in May, 1777, when a committee was appointed "to take<sup>2</sup> into consideration the state and condition of the negro and mulatto slaves in this State, and what may be done for their emancipation." I would hazard a guess that this committee was appointed in consequence of a resolution of the town of Enfield, on March 31, 1777, appointing a committee of three to prefer a memorial to the Assembly, to "pray<sup>3</sup> that the Negroes in this State be released from their Slavery and Bondage." The Assembly's committee, of which Hon. Matthew Griswold was chairman, reported a recommendation that the effective negro and mulatto slaves be allowed to enlist with the Continental bat-

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<sup>1</sup> CONNECTICUT COMMITTEE OF SAFETY.

Monday, September 4, 1775.

At a meeting of the committee On information, by letter, from Major Latimer, "that one of the Vessels lately taken by Captain Wallace, of the *Rose*, man-of-war, &c., at *Stonington*, was by stress of weather drove back to *New-London*, with one white man, a petty officer, and three negroes on board, and were in his custody, and asking directions how to dispose of them, &c. And by other information it appears that two of the negroes belong to Deputy Governour *Cooke*, of *Rhode-Island*, and were lately seized and robbed from him, with and on board a vessel, by said *Wallace*, and that the other belonged to one Captain *Collins*. And, on consideration,

*Voted and Ordered*. That the Major give information to the owner of the vessel, and, on his request, deliver her up to him, and send the white man to the jail at *Windham*, and the three negroes to the care of, and to be employed for the present by, Captain *Niles*, at *Norwich*, who is fixing out a small Armed Vessel, &c., until the Governour shall advise Deputy Governour *Cooke* of the matter, that they may, on proper notice, be returned to their owners."—*Am. Arch.*, IV., III., p. 672.

<sup>2</sup> Livermore, "Historical Research," p. 113.

<sup>3</sup> Trumbull's "Hartford County," II., p. 151.



talions now raising in this State, under the following regulations and restrictions: viz., that all such negro and mulatto slaves as can procure, either by bounty, hire, or in any other way, such a sum to be paid to their masters, as such negro and mulatto shall be judged to be reasonably worth by the selectman of the town where such negro or mulatto belongs, shall be allowed to enlist into either of said battalions, and shall thereupon be, *de facto*, free and emancipated; and that the master of such negro or mulatto shall be exempted from the support and maintenance of such negro or mulatto, in case "he" shall hereafter become unable to support and maintain himself." Further, if a slave desire to enlist for the war, he may be appraised by the selectmen and his master may receive the bounty and half the slave's annual wages until the appraised sum be equaled. The Upper House rejected this report.

At that session, however, an act was passed that any two men, "who should procure an able bodied soldier," should be exempted from the draft, during the continuance of the substitute's enlistment. "Of recruits," writes Dr. J. H. Trumbull, "and draughted men thus furnished, neither the selectmen nor commanding officers questioned the color, or the civil status; white and black, bond and free, if able bodied, went on the roll together, accepted as the representatives or substitutes of their employers."

In October, 1777,<sup>1</sup> the Assembly passed an act similar to the one proposed in May. It authorized the selectmen, on application from a master of a slave, to inquire "into the age, abilities, circumstances, and character" of the slave, and, being satisfied "that it was likely to be consistent with his real advantage, and that it was probable that he would be able to support himself, and is of good and peaceable life and conversation," they could free the master from all liability for support of his freedman. This offered an additional inducement to masters to free slaves to make up the

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<sup>1</sup> Revision of 1808, Title CL., Ch. I., Sec. 12. *Vide* Stiles' "Anc. Windsor," I., p. 491.

town's quota of men, and Dr. Trumbull says "some hundreds of black slaves and free men enlisted." The rolls of the companies show no distinction of color. The surnames Liberty, Freeman, Freedom are frequently found.<sup>1</sup> In Wethersfield, on the blank leaves of the book of town votes, among records of emancipation from motives of humanity, or for money, we find record of John Wright and Luke Fortune freeing their slave Abner Andrew, on May 20, 1777, to be their substitute in the army. Other certificates free slaves on condition of "enlisting in the Continental Army in Col. Wallis' Regiment" and "and after the customary three years service," and, as late as 1780, Caesar was manumitted by David Griswold there, on "condition of enlistment and faithfully serving out the time of enlistment," which was three years.<sup>2</sup>

David Humphreys commanded a company entirely composed of negroes, their roster showing fifty-six names,<sup>3</sup> first of which is Jack Arabas, of whom we shall hear again. It was said Humphreys nobly volunteered to command the company, when others refused, and continued its captain until peace was declared. The company was in Meigs' (later Butler's) regiment of the Connecticut Line.

At Fort Griswold, when Col. Ledyard was murdered, a negro soldier named Lambert avenged his death by thrusting a bayonet through the British officer who slew his superior, and then fell a martyr, pierced by thirty-three bayonet wounds.<sup>4</sup>

"As to the efficiency of the service they rendered," says Dr. J. H. Trumbull,<sup>5</sup> "I can say nothing from the records,

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<sup>1</sup> Livermore's "Historical Research," p. 115.

<sup>2</sup> Am. Hist. Mag., XXI., 422. Trumbull's "Hartford County," II., 475.

<sup>3</sup> Williams' "Hist. of Negro Race in America," I., 361.

<sup>4</sup> Wilson, "Rise and Fall of the Slave Power," I., p. 19.

<sup>5</sup> Livermore's "Historical Research," p. 115. Lib Quy, native African, was a trusty Continental soldier from Norwich in 1780 and '81 (Caulkins' "Norwich," p. 331). Oliver Mitchell, a negro Revolutionary soldier, died of a fit in his boat, March, 1840, in which he had been to Hartford to draw his pension (Stiles' "Ancient Windsor," I., p. 489).

save what is to be gleaned from scattered files.... So far as my acquaintance extends, almost every family has its traditions of the good and faithful service of a black servant or slave, who was killed in battle or served through the war and came home to tell stories of hard fighting and draw his pension. In my own town—not a large one—I remember five such pensioners, three of whom I believe had been slaves, and were in fact slaves to the day of their death; for (and this explains the uniform action of the General Assembly on petitions for emancipation) neither the towns nor the State were inclined to exonerate the master, at a time when slavery was becoming unprofitable, from the obligation to provide for the old age of his slave.”

An interesting Revolutionary case is that of the slaves of Col. William Browne of Salem, Mass., a Tory, whose large farm in Lyme was confiscated. It was leased for a term of years with nine slaves, who petitioned for liberty in 1779, through Benjamin Huntington, administrator on confiscated estates. The lessee offered to consent to their freedom without requiring a diminution in the rent. Mr. Huntington drew up their petition to the Assembly,<sup>1</sup> stating that they, “all friends to America, but slaves lately belonging to Col. Wm. Browne,” who “fled from his native country to his master, King George, where he now lives like a poor slave,” “though they have flat noses, crooked shins, and other queerness of make, peculiar to Africans, are yet of the human race, free-born in our country, taken from thence by man-stealers, and sold in this country, as cattle in the market, without the least act of our own to forfeit liberty; but we hope our good mistress, *the free State of Connecticut*, engaged in a war with tyranny, will not sell honest Whigs and friends of the freedom and independence of America, as we are, to raise cash to support the war: because the Whigs ought to be *free* and the *Tories* should be sold.” They offer, if set free, to get security to indemnify the State

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<sup>1</sup> Great Prince, Little Prince, Luke, Caesar, Prue and her three children. Livermore, “Historical Research,” p. 116.

in case of their coming to want ; but, though the Lower House was favorable, the Upper one refused to grant the petition.

#### OPINIONS OF THE FOREFATHERS ON SLAVERY.

One of the earliest in Connecticut to come out boldly against slavery was Rev. Levi Hart of Preston, who, on Sept. 20, 1774, at Farmington, preached a sermon at the meeting of "the Corporation of Freemen," in which he condemned the slave trade and severely criticized slaveholding.<sup>1</sup>

Dr. William Gordon of Roxbury, Mass., though living out of Connecticut, became interested in the abolition of slavery there and sent a plan for its gradual extermination to the "Independent Chronicle" of Nov. 14, 1776, which is very severe on slaveholders and paints the deathbed of one of them.<sup>2</sup>

In the Constitutional Convention<sup>3</sup> of 1787 we have full expression of the views of Roger Sherman and Oliver Ellsworth, two of Connecticut's three delegates. The former said "that the abolition of slavery seemed to be going on in the United States and that the good sense of the several States would probably by degrees complete it." He regarded the slave trade as iniquitous; but, the point of representation having been settled after much difficulty and deliberation,<sup>4</sup> he did not think himself bound to make opposition." He objected, however, to the tax on imported slaves, as implying that slaves were property, and that the tax imposed was too small to prevent importation.<sup>5</sup> He thought that, "as the States were now possessed of the right to import slaves, as the public good did not require it to be taken

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<sup>1</sup> Trumbull's "Memorial History of Hartford Co.," II., p. 192.

<sup>2</sup> Moore, "Notes on Slavery in Mass.," p. 177.

<sup>3</sup> Connecticut voted for Jefferson's ordinance of 1784.

<sup>4</sup> Livermore, "Historic Research," p. 51.

<sup>5</sup> Madison Papers, V., 391 (Elliot).

<sup>6</sup> Wilson, "Rise and Fall," p. 51.

from them, and as it was expedient to have as few objections as possible to the proposed scheme of government, it would be best to leave the matter as we find it.”<sup>1</sup> He said, when Baldwin of Georgia, a man of Connecticut birth, stated his State would not confederate unless allowed to import, that it was better to let the Southern States import slaves<sup>2</sup> than to lose those States, if they made that a *sine qua non*. He thought it would be the duty of the General Government<sup>3</sup> to exercise the power of prohibiting importation, if it were given it. He preferred not to use the word slaves in the Constitution, and saw no<sup>4</sup> more propriety in the public seizing and surrendering a slave than a horse. Ellsworth said, “Let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States. What enriches a part enriches the whole, and the States are the best judges of their particular interests. The old Confederation had not meddled with this point, and he did not see any greater necessity for bringing it into the policy of the new one.” He had<sup>5</sup> “never owned a slave and could not judge of the effects of slavery on character.” He said, however, that, if it was “to be considered in a moral light, we ought to go further and free those already in the country. As slaves also multiply so fast in Virginia and Maryland, it is cheaper to raise than import them, whilst in the sickly rice swamps, foreign supplies are necessary. If we go no further than is urged, we shall be unjust towards South Carolina and Georgia. Let us not intermeddle. As population increases, poor laborers will be so plenty as to render slaves useless. Provision is already made in Connecticut for abolishing it, and the abolition has already taken place in Massachusetts. As to the dangers of insurrections from foreign influence, that will become a motive to kind treatment of the slaves.”<sup>5</sup>

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<sup>1</sup> Livermore, p. 56.

<sup>2</sup> Livermore, p. 60.

<sup>3</sup> Elliot. V., pp. 457-461 and 471. Connecticut voted to extend the open period from 1800 to 1808.

<sup>4</sup> Livermore, p. 57.

<sup>5</sup> In 1787, Connecticut voted in the Constitutional Convention for the three-fifths compromise.



Mistaken in many respects as these men were, they undoubtedly represented the current opinion of their time.

We find a contrary opinion in the resolves of the Danbury Town Meeting on December 12, 1774, that, "It is with singular pleasure, we notice the second article of the Association, in which it is agreed to import no more Negro slaves, as we cannot but think it a palpable absurdity, so loudly to complain of attempts to enslave us, while we are actually enslaving others, and that we have great reason to apprehend the enslaving the *Africans* is one of the crying sins of our land, for which Heaven is now chastising us. We notice also with pleasure the late Act of our General Assembly, imposing a fine of £100 on any one, who shall import a Negro Slave into this Colony. We could also wish that something further might be done for the relief of such, as are now in a state of slavery in the Colony,<sup>1</sup> and such as may hereafter be born of parents in that unhappy condition."

#### STATE LEGISLATION ON SLAVERY.

The growth of free ideas went on apace, after the State became independent. In 1780, a bill for gradual emancipation passed the Upper House, was continued until the next session and then, apparently, set aside. It provided that no Indian or colored child, then living and under seven years of age, nor any born afterwards, should be held as a slave beyond the age of twenty-eight.<sup>2</sup> In 1784, however, the measure was passed and emancipation was begun. The Legislature enacted that, "Whereas sound public policy requires that the abolition of slavery should be effected, as soon as may be consistent with the rights of individuals and the public safety and welfare," no negro or mulatto, born after March 1, 1784, should be held as a slave after reaching the age of twenty-five.<sup>3</sup> This regard for the exist-

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<sup>1</sup> Am. Arch., IV., I., pp. 1038.

<sup>2</sup> Jameson, "Essays in Const. Hist.," p. 296 (Brackett, "Status of the Slave, 1775-1789").

<sup>3</sup> Revision of 1808, Title CL., Ch. I., Sec. 13. Fowler, "Hist. Status," p. 85, shows that this really made slaves in the same con-

ing rights of property was shown by the gradual abolition of slavery in Connecticut,<sup>1</sup> the holding of slaves not being absolutely forbidden until 1848, when any one to be a slave must have been sixty-four years old.

In October, 1788, a bill was passed, forbidding any inhabitant of Connecticut to receive on his vessel "any inhabitants of Africa as slaves," under penalty of \$1,667 for the use of the vessel and \$167 additional for each slave carried.<sup>2</sup> Half of this fine was to go to the plaintiff and half to the State; but, by the act of October, 1798,<sup>3</sup> prosecutions must begin in three years. Furthermore, insurance on ships used in the slave trade, or on slaves carried, is to be void. We have seen the importation of slaves forbidden in this act: the exportation "of any free negro, Indian, or mulatto, or person entitled to freedom at twenty-five," inhabitants of Connecticut, was to be punished by a fine of \$334 levied on any who should, as principal or accessory, "kidnap, decoy, or forcibly carry away" such persons from the State. "Any friend of the inhabitant" carried off may prosecute and receive "fit damages," and must give bond to use such rightly for "the injured inhabitant," or family. This prohibition was not to prevent persons removing from the State from taking their slaves with them, nor to prevent persons living in Connecticut from sending their slaves out of the State, on ordinary and necessary business. This sale of slaves out of the State was soon stopped, for, in May, 1792, the law was so changed that the taking a slave from the State, or assistance therein, was punishable with a

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dition as apprentices, and claims the law was passed partly through economical reasons, as there were more laborers than employment.

<sup>1</sup> In October, 1788, owners must file certificate of birth of each slave within six months thereof, or pay \$7 for each month's delay, half to complainant and half to poor of town. October, 1789, the latter half was to go to the State. Revision of 1808, Title CL., Ch. V., Sec. 5, and Ch. VI.

<sup>2</sup> Revision of 1808, Title CL., Ch. V., Sec. 1. Penalty changed to \$170 and \$1700 by Revision of 1821, Title 93, Sec. 7. Penalty was originally £1000. Root's Reports, L, xxxi.

<sup>3</sup> Revision of 1808, Title CL., Ch. III.

<sup>4</sup> Revision of 1808, Title CL., Ch. V., Secs. 3-4. Penalty changed to \$350 in Revision of 1821, Sec. 6.

like fine of \$334, half of which should go to the plaintiff and half to the State. Notes, bonds, or mortgages given in payment for slaves thus sold out of the State were to be void. The same exemptions as to persons removing from the State or sending their slaves out temporarily, were made as in the former law.<sup>1</sup>

At the same session of the Assembly, the age of the slave at manumission was limited to the period between twenty-five and forty-five years, and the certificate given at emancipation by the selectmen was ordered to be recorded in the Town Records.<sup>2</sup> This somewhat reactionary act, modifying the law of 1702, designed to regulate the giving of freedom, was followed in five years by one still further limiting the bounds of slavery; for in May, 1797, it was enacted that no negro or mulatto born after August, 1797, should be a slave, after reaching the age of twenty-one.<sup>3</sup>

Here the laws with regard to slavery remained without essential change for many years. Not until 1833 do we find another important act passed in regard to slavery, and then, under the influence of the outcry against Miss Prudence Crandall, the Legislature put on the statute-book the most shameful law we meet in our study.<sup>4</sup> It stated that, "whereas attempts have been made to establish literary institutions in this State, for the instruction of colored persons belonging to other States and countries, which would tend to the great increase of the colored population of the State and thereby to the injury of the people," any person establishing such a school without the consent in writing of the selectmen and civil authority of the town, should pay a fine of \$100 to the State Treasurer for the first offense and double for each

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<sup>1</sup> Revision of 1808, Title CL., Ch. VI., Secs. 1, 2, 3.

<sup>2</sup> Revision of 1808, Title CL., Ch. II. Free negroes could vote until the Constitution of 1818 restricted the suffrage to white males.

<sup>3</sup> Revision of 1808, Title CL., Ch. III.

<sup>4</sup> May 24, 1833. Act of 1833, Ch.      Sec. 1. Sec. 2 provided that a colored person not an inhabitant of Connecticut, residing in a town for education, might be removed as any other alien. Sec. 3 provided that the evidence of such colored person is both admissible and compulsory against the teacher.

succeeding one, the fines increasing in geometrical progression. The law was not destined to be a blot upon any of the States' codes, but was repealed in 1838 by the Legislature, under the leadership of Francis Gillette,<sup>1</sup> a young representative from Hartford, who was afterwards United States Senator. That same Legislature passed resolutions against the annexation of Texas, the slave trade in the District of Columbia, and in favor of the right of petition. Nay more, that same year was passed the "Act for the Fulfilment of the Obligations of this State imposed by the Constitution of the United States in regard to persons held to service or labor in one State and escaping into another, and to secure the right of trial by jury in the cases herein mentioned."<sup>2</sup> Prof. W. C. Fowler called this law a "nullification"<sup>3</sup> of the United States Act of 1793, which provided that the owner or his attorney could take the fugitive slave before any magistrate of the county, city, or town wherein the arrest might be made, and, on proof by oral testimony or affidavit, taken before and certified to by a magistrate of any State or Territory, the magistrate must give a certificate, which should be sufficient warrant for removing the slave from the State.

Let us see now how Connecticut fulfilled her obligations, in this early personal liberty law. Instead of following the provisions of the United States law, she enacted that the captured fugitive should be brought before the county or city court on a writ of *habeas corpus*, and no magistrate not having the power to issue that writ should give the claimant any warrant or certificate, under penalty of \$500. When he arrived at court, the claimant must pay all fees in advance and must, "by affidavit, set forth minutely" the ground of

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<sup>1</sup> Wilson, "Rise and Fall of the Slave Power," I., 372. The Legislature, however, by a vote of 165 to 33, rejected a constitutional amendment allowing negroes the suffrage. Niles' Reg., Vol. 54, p. 193. In 1842 the State again protested against the annexation of Texas. Niles' Reg., Vol. 62, p. 140.

<sup>2</sup> Revision of 1838, Title 97, Ch. II.

<sup>3</sup> Local Law in Mass. and Conn., p. 98.



his claim to the slave's services, the time of the slave's escape, and the place where the slave then was, or was believed to be. The judge was next to allow necessary time for further proof and, meantime, commit the fugitive to the custody of the sheriff. The questions of fact were to be tried by a jury, on which no one was to sit "who believes there is not, constitutionally or legally, a slave in the land," in this showing the early distrust of the Abolitionists. If the claimant does not prove the claim, he is liable to the payment of costs and damages; if he does prove it, he may take the slave from the State, but must, "without unnecessary delay," take him by the "direct route" to his home. In the same act, the law against transporting slaves from the State, save as above, is made universal and the penalty for its violation fixed at \$500, to go to any one prosecuting. Any fugitive arrested, contrary to the act, may have a writ of *habeas corpus* sued out by his next friend; and, as an afterthought, at the very end, we read that nothing in this act shall extend to the United States Courts.

As the feeling grew more bitter, even this law was felt to be too much of a yielding in principle and, in 1844,<sup>1</sup> the Legislature decided that no Judge, Justice of the Peace, or other officer should issue a warrant "for the arrest or detention of any person escaping into this State, claimed to be fugitive from labor or service as a slave," or grant a certificate to the claimant. Such papers, if issued, are to be void, but, as before, the people soothed their consciences with the belief they were fulfilling their obligations, by saying "nothing herein shall interfere with United States officers."<sup>2</sup>

In 1847,<sup>3</sup> by a great majority, the State rejected a proposal

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<sup>1</sup> Compilation of 1854, Title 51, Sec. 5. The preamble stated that "it has been decided by the Supreme Court of the United States since" 1838 "that both the duty and the power of legislation on that subject pertains exclusively to the National government."

<sup>2</sup> In 1845 the Legislature of Connecticut protested against the admission of Texas as a Slave State. Niles' Reg., Vol. 69, p. 246.

<sup>3</sup> The vote was, for, 5,353; against, 19,148. Over half the legal voters did not vote. Niles' Reg., Vol. 73, Nov. 6, 1847. Fowler, p. 152.



to allow colored men the ballot, but the next year<sup>1</sup> it decreed, what was already almost accomplished by the action of former laws, "that no person shall hereafter be held in slavery in this State," that emancipated slaves must be supported by their masters,<sup>2</sup> and that no slave shall be brought into Connecticut. Thus Connecticut became in law a Free State, as she long had been in fact. When the fugitive slave law of 1850 was passed, the rising tide of indignation swept over Connecticut. Here and there some resisted the torrent and organized Union Saving Meetings, like the one the famous Rev. N. W. Taylor addressed at New Haven, deprecating agitation, counseling obedience, declaring that he had not been able to discover that the article in the Constitution for the rendition of fugitives was "contrary to the law of nature, to the law of nations, or the law of God," and claiming that it was "lawful to deliver up fugitives for the high, the great, the momentous interests of the Southern States."<sup>3</sup> But the majority sympathized rather with Gov. H. B. Harrison, when he introduced his "personal liberty bill" in the Senate of 1854,<sup>4</sup> and "avowed his belief that it would render the fugitive slave law inoperative in Connecticut." The Hon. Henry C. Deming, in opposing the bill, said, though it was "nicely drawn," he thought it conflicted in spirit with the United States Constitution, as it undoubtedly did, and that "it was not in equity and justice deserved by our Southern brethren, if they behave pretty well." The advocates of the bill used no such mild terms. The Hon. John Boyd, late Secretary of State, said "desperate diseases require desperate remedies." He had "some faith in the homoeopathic remedy that like requires like," and, as he believed "the exigencies of the time" demanded it, he thanked Mr. Harrison for introducing the bill. He added, "if Shy-

<sup>1</sup> Compilation of 1854, Title 51, Secs. 1 and 2. *Vide* Conn. Repts., II., 355.

<sup>2</sup> Remember all such must have been over sixty-four years of age.

<sup>3</sup> Wilson, "Rise and Fall of the Slave Power," II., 318.

<sup>4</sup> Fowler, "Local Law in Mass. and Conn.," pp. 98-99. It was introduced about June 25.

lock claims his pound of flesh, he must be careful not to take any of the blood." Judge Sanford saw in the bill "new and important principles, which he believed were entirely constitutional and would be so decided by the Supreme Court." Ex-Gov. Wm. S. Miner could not find a "single line, sentence, or word" unconstitutional in the bill. Judge Sanford spoke again and again, using such language as this: that he thought the South had driven this matter so fast that it had "driven us back to our reserved rights, if we had any." He would occupy the last inch the Constitution left them, come square up to the line, but not one step over. He would oppose the fugitive slave law by any means in his power within the limits of the Constitution. He said, with great clearness, dignity, and force, that the bill was constitutional, that the emergencies of the times demanded such a law; he portrayed the odious features of the fugitive slave law and said the slave-catcher was the most despicable of men. At the same time a bill was introduced, which, however, did not pass, prohibiting the use of any court-house, jail, or other public building for the trial or confinement of fugitive slaves. To this, Mr. Boyd proposed an amendment that a building used for such a purpose should "be rased to the foundation and remain a perpetual ruin." Even the excited Senate had good sense enough to vote this frantic proposition down.

The law as passed, entitled "An Act for the Defense of Liberty in this State," provided that "any person, who shall falsely and maliciously pretend that any free person is a slave, intending to remove him from Connecticut, shall pay a fine of \$5000 and be imprisoned five years in the State Prison." In trials, two credible persons, or equivalent evidence, were required to prove the defendant a slave, and depositions were not to be received as evidence. Witnesses falsely representing free persons as slaves are to receive the punishment mentioned above, and, with the intention to satisfy their consciences that they were not violating United States law, the legislators added that any person hindering

an officer from the arrest of a fugitive, or aiding an accused person to escape, was to be imprisoned one year in State's prison. The last section of the bill contained an interesting reminder of colonial customs, in providing that the act should not cover the case of apprentices.

Though slavery is still found as a title in the Revision<sup>1</sup> of 1866, the last act on the subject was passed in 1857, and with that the statutory history of slavery in Connecticut may well be ended. At that time it was enacted that "any person held to service as a slave in any other State or country," and not being a fugitive from another of the United States, "coming into this State, or being therein, shall forthwith become and be free."

#### CASES ADJUDICATED IN THE HIGHER COURTS WITH REFERENCE TO SLAVERY.

The question as to the manumission of slaves by service in the Continental Army with the master's consent, was decided in the case of *Jack Arabas* versus *Ivers*.<sup>2</sup> Ivers, the master, permitted Arabas to enlist in the army. He served through the war and was discharged at its end, when Ivers again claimed him. He fled to the eastward, was overtaken and brought back to New Haven, where he was put in the jail for safekeeping. He sued out a "habeas corpus" and the court granted it, "upon the ground that he was a free man, absolutely manumitted from his master by enlisting and serving in the army." It was a fine idea, that he who helped to free his country could not be a slave.

The only other case in the Connecticut reports as to manumission is *Geer* versus *Huntington*,<sup>3</sup> where the plaintiff claimed a negro as his slave by a bill of sale from his former mistress, while the defendant claimed that the mistress had told him he should be servant to no one but her and should be free at the age of twenty-five. As he had passed that

<sup>1</sup> Title LVIII., Secs. 1-6.

<sup>2</sup> Root's Reports, I., p. 92, 1784.

<sup>3</sup> Root's Reports, II., 364.

age before he left her service, the court held him to have been freed, by a liberal interpretation of her promise.

The only case I have found tried in Connecticut in regard to the Slave Trade, save the famous *Amistad* case, to be treated later, is that of the *United States* versus *John Smith*.<sup>1</sup> It was an action to recover double the value of Smith's interest in over one hundred negro slaves, transported in the brig *Heroine*, of which he was sole owner and master, from Africa to Havana, and there sold, contrary to the Act of Congress of May 10, 1800. The *Heroine* was in Africa between Dec. 1, 1805 and April 1, 1806, and, arriving at Havana before June 1, Smith sold the slaves before the end of that month for not less than \$10,000, so action was brought for \$20,000. One of the crew was offered as a witness by the government; but Smith's attorney objected to this testimony on the ground that it would incriminate the man and subject him to a fine of not over \$2000 and two years imprisonment, according to the above-mentioned Act of Congress. The government said they had entered a *nolle prosequi* in his case and it was too late to institute another proceeding against him. The defense pleaded that the witness had fled from justice and that in such case the statute of limitations would not hold. Further, he might be excused from testifying, as he was unwilling; but the judge ruled that a witness could not plead his wrong-doing as a defense and must testify. However, there was a verdict for the defendant, as the judge charged the jury that the offense was completed when the vessel arrived at Havana, not when the slaves were sold, and the prosecution, though begun within the prescribed period, two years, of the latter date, was not within two years of the former.

The most frequent cause of negroes appearing in cases before the Supreme Court was the law of settlement. When negroes became infirm and were penniless, it was an important question who should support them, and from this several

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<sup>1</sup> Day's Reports, IV., p. 121. U. S. Circuit Court, Hartford, Sept., 1809. Fowler's "Hist. Status," pp. 16-18, has interesting facts on slave trade in Conn.

cases arose. The first of these,<sup>1</sup> *Wilson et al. vs. Hinkley et al.*, in the Tolland County Court, was a case of an appeal from a judgment of a Justice of the Peace. In this court, Hinkley and others, selectmen of the town of Tolland, sued the selectmen of the town of Coventry for support of Amy Caesar and her children. This Amy, daughter of an Indian woman, was born in Tolland, and lived with a citizen of that town as servant till eighteen years of age. Then she was set at liberty and, after four years more in Tolland, married Timothy Caesar, also a child of an Indian woman and slave to a citizen of Mansfield, where they lived nine months. Thence they removed to Coventry, Timothy being granted permission to do so by his master. There they lived eighteen months, since which time Amy and her children had apparently lived in Tolland. Tolland's claim for reimbursement was resisted by Coventry, which said the former masters of Amy and Timothy should support them. The court decided that Timothy, "being born of a free woman, a native of the land, was not a slave," applying apparently the old civil law maxim. "Nor" was he "a servant bound for time, nor an apprentice under age, nor under disability to gain settlement by commorancy"; therefore, by residence in Coventry over a year he had gained settlement for himself and wife, and, as she was never a "slave or servant bought for time," Coventry must pay the expense of her support.

The next case was also one in which the same town of Tolland was interested; *Ebenezer Kingsbury vs. Tolland*.<sup>2</sup> Joseph Kingsbury, of Norwich, bought two native Africans, Cuff and Phyllis, as "servants for life," and gave them to his wife. She died, December, 1773, freeing them. In 1775, with the consent of Ebenezer Kingsbury, their former mistress's sole executor, they removed to Tolland and, after living there nine years, came to want and were supported by the town. The town brought suit against Kingsbury and won in the County Court; but in the Court of Appeals lost its case, on the technicality that he was sued personally and not

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<sup>1</sup> Kirby Reports, 202.    <sup>2</sup> Root's Reports, February, 1796.



as executor. The court, however, in an *obiter dictum*, intimated the personal representatives and next of kin were liable, if sued as such, for the support of freed slaves, if there were sufficient assets.

A third case was *Bolton vs. Haddam*,<sup>1</sup> by which was determined that a slave was domiciled with his master and, if manumitted in any way, continued an inhabitant of the same town as before, unless he became legally settled elsewhere.

Twenty years now pass before we find another such case; then, November, 1817, was decided the case of *Windsor vs. Hartford*.<sup>2</sup> This rather important case regarded the residence of a negress, Fanny Libbet, and her two illegitimate children. Fanny, herself illegitimate, was born in Hartford in 1785 and, at the age of three, was given by her master to his son in Wethersfield. There she lived until twenty-five years of age, when her term of service by law expired. Her mother had been sold to a citizen of Windsor in 1795 and was emancipated by him in 1801. Fanny went to her mother as soon as she could, and there her two children were born. Windsor supported them for a while and then sued Hartford, on the ground that Fanny, born after March 1, 1784, was never a slave and so took her settlement from her birthplace, Hartford. The court so decided, stating that "she is to be considered as a free person and never was a slave," an important interpretation of the act of 1784. Her residence in Wethersfield was that of an apprentice, and she had never gained settlement in Windsor. As she never had been a slave, her former master was not liable to her support.

Soon after was tried the case of the *Town of Columbia vs. Williams et alium*. A citizen of Groton had left a slave, Adam, who had, after his master's decease, removed to Columbia and there became a town charge. The town sued the heirs of Williams, and they claimed that the suit was improperly brought, that Groton ought have been sued, as Adam had a settlement with his master there, which town

<sup>1</sup> Root's Reports, II., p. 517. February, 1797. Tolland County.

<sup>2</sup> Conn. Reports, II., p. 355.

<sup>3</sup> Conn. Reports, III., 467, October 28, 1820.

could then have recovered from them. As it was admitted that Adam had never been manumitted, the court sustained the claims of the defendants, and the town, on this point, lost its case and a new trial was ordered, which seems never to have come off.

Flora,<sup>1</sup> slave of Elisha Pitkin, gave rise to two cases. *Pitkin et al. vs. Pitkin et al.*, the first, was brought by the executors of Elisha Pitkin against certain of his heirs. He executed a deed of gift of all his real estate to the plaintiffs and defendants in 1816, but kept it in his possession until his death, three years later. When he died, he bequeathed his<sup>2</sup> remaining property by testament to the plaintiffs and certain of the defendants, to be equally divided among them, they being enjoined to take care of Flora and bear the expense equally, or to have the executors reserve sufficient estate for her support. The executors claimed they paid "large sums" for her support, supposing there was sufficient estate; but, at final settlement, found not enough was left outside of the real estate conveyed by deed. This they ask the court to order sold, sufficiently to provide for Flora's support. The defendants demurred, and their demurrer being sustained, the plaintiffs carry the case to the higher court. The plaintiffs contended that, "where there is service for life there must be support for life," and, therefore, the support of the slave was a charge upon the estate, that Mr. Pitkin's intention was to have her supported, that it was the duty of the executors to support her, and they were consequently not volunteers and had a superior equity to that of the defendants, and that the court should decide the case according to its equities. The defendants said Mr. Pitkin did not charge Flora's support on the real estate, that the executors were volunteers, having nothing to do with the real estate, and that, if the land should be liable, it should be so decided in a probate, not in a chancery court. The court decided in favor of the defendants,

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<sup>1</sup> Conn. Reports, VII., p. 315, June, 1829, and VIII., 392, June, 1831.

<sup>2</sup> Probably not all, though of this I am not absolutely sure.

on this last contention, and on the ground that it could not foresee what sums might be needed for her support, and hence could not determine on the quantity of land to be sold.

Having lost their case, the executors seem to have given up trying to support Flora and to have endeavored to throw the expense on the town of East Hartford, which sued them in 1831, alleging that it had supported Flora three years. The defendants demurred that the selectmen were not obliged to support her, and as volunteers they cannot recover, for "the duty of support rests on the master alone," and he is only liable to the town for the support of emancipated slaves. "Slavery is not founded in reason and justice, like the relations of husband and wife." Thirdly, as the supplies were not furnished in Elisha Pitkin's lifetime, the defendants should be sued as owners, not executors. The prosecution, on the other hand, asserted that the relation of master and slave is recognized by statute law; during the continuance of this relation the master is liable for support of slave, which slave if unemancipated remains part of the estate; that a needy slave must be relieved by the town in which is his settlement, for which relief recovery is to be had at law. Judge Daggett, in his majority opinion, confined himself to the obligation of the selectmen for her support. He said the only cases where the town would have to support a slave were when both master and slave were paupers, or a slave emancipated in accordance with the act of 1792 should become such. In this suit neither was the fact, and the town was a volunteer and could no more recover than if it had supported a wife or child of a man of means. Chief Justice Hosmer agreed with this reasoning, from which Judge Peters dissented, though he agreed with the decision. He said, "The relation of master and servant, or qualified slavery, has existed in Connecticut from time immemorial and has been tolerated (not sanctioned) by the legislature. But absolute slavery, where the master has unlimited power over the life of the slave, has never been permitted in this State." He continued, Flora at Mr. Pitkin's death, not being specially devised, vested as a

chattel in the executors. "They alone could sell her; they became her masters and she their slave, and they alone were to maintain her." He thought, however, she ought to be maintained by the town as a vagrant, when the town could recover by implied promise; basing his decision for the defendants, on the technicality that, "when an executor covenants or promises, he binds himself personally and not the heirs or estate of the testator, therefore they should not have been sued as executors, but as persons."

Judge Williams filed a dissenting opinion, in which Judge Bissell concurred. He placed the chief importance on the implied promise, stating, "that slavery has existed in this State cannot be denied, and a few solitary cases still exist, to attest to the melancholy truth...The man who had a right to all the time and services and even offspring of his unhappy slave, must, of course, be bound to maintain him." Executors are liable for debts arising after death of the testator, "where the demand arises from an obligation existing upon the testator in his life." Such an obligation was the support of this slave, which, as personal property, vested in the executors. He thought that it was not necessary to sue them personally, that the *onus probandi* rested on them, that there were no assets. The town was not a volunteer, for "the woman must be relieved by the town where she was, or starve." He quoted a statute providing that "all poor and impotent persons," without estate or relatives, "shall be provided for and supported by the town." The town cannot wait to hunt up the persons legally liable, before rendering aid. "The owner of the slave is primarily liable, and it is only his neglect of duty which makes the defendants liable at all, and it is admitted that, in consequence of that neglect, the defendants would be responsible to any *individual* who supplied the necessities of the slave," and the judge then said he saw no reason why the town also should not recover. His opinion, leaving the interpretation of the statutes and basing itself on abstract considerations, stated that, "by the principles of natural justice they are bound to refund, and I

am not satisfied that any technical rule of law can be interposed to prevent it."

The opinions in this case seemed important enough to devote some space to it. The next case<sup>1</sup> we note is that of *Colchester vs. Lyme*, for support of Jenny. She had belonged to a citizen of Lyme until fifty-six years of age, when she was emancipated and went to live in Colchester. Coming to want, the town sued her old residence for her support, claiming that, as she was over forty-five when emancipated, the liability of her master to support her continued, and, "while the liability of the master to support the slave remains, the incapacity of the slave to acquire a new settlement remains also." This the defense denied, and the court decided in their favor. The opinion stated: "If she had been white, or never a slave, she would have had a settlement in Colchester. Does the fact she was once a slave alter matters? There was nothing in the statute (of 1777) which in the least impaired the right of the master to give entire freedom to his slave at any time." The want of a certificate only continued the master's liability to support the slave. "By relinquishing all claims to service and obedience," he "effectually emancipated her, and thus she became *sui juris* and entitled to all the rights and privileges of other free citizens of the State, among which the right of acquiring a new place of settlement was the most important....The town where the emancipated slave belongs or has a settlement, is the town empowered by statute to recover from the master or his heirs,...and if Colchester is such a town, then Colchester only can recover from the former master or his representatives."<sup>2</sup>

The last case of the kind is *New Haven vs. Huntington*, decided as late as 1852, in which it was adjudged that the settlement of a free woman in Connecticut is not superseded by marriage with a slave of another State, nor by his subsequent emancipation, unless the laws of the other State (which

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<sup>1</sup> Conn. Reports, XIII., p. 274, July, 1839.

<sup>2</sup> *Guilford vs. Oxford*, Conn. Reports, IX., 321, is a suit for the support of an illegitimate free mulatto.



in this case was New York) so provide, and her settlement is communicated both to legitimate and illegitimate children born in Connecticut after the marriage.<sup>1</sup>

Considerable attention has been given to these cases, as they illustrate important principles of the laws of the State and show how the judges interpreted those laws.

#### MISS PRUDENCE CRANDALL AND HER SCHOOL.

In the autumn of 1831,<sup>2</sup> Miss Crandall, a Quakeress, residing in the southern part of Canterbury, opened a girls' school in that town. She had taught at Plainfield successfully, and moved to Canterbury, at the request of some prominent citizens, buying a house on the Green. Her school was a success from the outset, until she received as pupil a colored girl, Sarah Harris, about seventeen years of age, the daughter of a respectable man who owned a small farm near the centre. The girl was a member of the village church, and had been at the district school, in the same class as some of Miss Crandall's pupils. She now wished "to get a little more learning—enough to teach colored children." Previous to this admission to the school, Miss Crandall had employed as a servant a "nice colored girl," Marcia, who was afterward married to Charles Harris, the brother of Sarah. Young Harris took Garrison's "*Liberator*" and loaned it to Marcia, who used frequently to show the paper to Miss Crandall. "Having been taught from early childhood the sin of slavery," as she wrote in 1869, "my sympathies were greatly aroused," and so Miss Crandall agreed to receive Sarah Harris as a day scholar. "By this act," she continued, in the same letter, "I gave great offense. The wife of an Episcopalian clergyman, who lived in the village, told me that, if I continued that colored girl in my school, it

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<sup>1</sup> Conn. Reports, XXII.

<sup>2</sup> The chief authorities are Larned's "*Hist. Windham Co.*," Vol. II., Book IX., Chap. III., pp. 491 sq.; S. J. May, "*Recollections of the Anti-slavery Conflict*," pp. 47-71, which Wilson, "*Rise and Fall*," I., pp. 240-245, and Williams, "*Hist. Negro Race*," II., pp. 149-156, almost entirely followed; Crandall vs. Conn., Conn. Reports.

could not be sustained. I replied to her '*that it might sink, then, for I should not turn her out.*' I very soon found that some of my school would not return, if the colored girl was retained. Under the circumstances, I made up my mind that, if it were possible, I would teach colored girls exclusively." Now, though Miss Crandall was undoubtedly shamefully treated by the people of the town, they nevertheless had just ground of complaint from the course she pursued. Because some of her patrons were offended at the entrance of one colored girl into her school, she determined to give up teaching white girls entirely, and to bring a number of colored children into the most aristocratic part of the town, while the people who had received her most kindly and had consented to act as visitors to her school were not regarded. She consulted leading Abolitionists in New York and Boston, but no one in the town, whose interests were most immediately concerned in the opening of such a school. Some irritation might therefore have been expected, but the conduct of the townspeople went beyond all bounds and was thoroughly disgraceful. Miss Crandall's conduct, on the other hand, apart from her initial lack of consideration for the judgment of those around her, was consistent, courageous, and praiseworthy.

When she announced her purpose to open a school for "young ladies and little misses of color," dismay seized all. A committee of four of the chief men of the village visited her to remonstrate with her, and, on her proving obdurate, a town meeting was called for March 9, 1833, to meet in the Congregational Meeting-house. Miss Crandall had not shown a conciliating spirit. When Esquire Frost had labored to convince her of the impropriety of her step "in a most kind and affecting manner," and "hinted at danger from these leveling opinions" and from intermarriage of whites and blacks, Miss Crandall at once replied, "Moses had a black wife." She asked Rev. Samuel J. May, pastor of the Unitarian Church in Brooklyn, George W. Benson, the President, and Arnold Buffum, Agent of the New England

Anti-Slavery Society, to present her cause at the town meeting. Judge Rufus Adams offered the following resolutions: "Whereas, it hath been publicly announced that a school is to be opened in this town on the first Monday of April next, using the language of the advertisement, 'for young ladies and little misses of color,' or in other words for the people of color, the obvious tendency of which would be to collect, within the town of Canterbury, large numbers of persons from other States, whose characters and habits might be various and unknown to us, thereby rendering insecure the persons, property, and reputations of our citizens. Under such circumstances, our silence might be construed into an approbation of the project. Thereupon:

"Resolved, that the locality of a school for the people of color, at any place within the limits of this town, for the admission of persons of foreign jurisdiction, meets with our unqualified disapprobation, and it is to be understood that the inhabitants of Canterbury protest against it in the most earnest manner.

"Resolved, that a committee be now appointed, to be composed of the civil authority and selectmen, who shall make known to the person contemplating the establishment of said school, the sentiments and objections entertained by this meeting, in reference to said school, pointing out to her the injurious effects and incalculable evils resulting from such an establishment within this town, and persuade her to abandon the project."

The Hon. Andrew T. Judson, a Democratic politician, later Congressman and United States District Judge, who resided next to Miss Crandall, and who had been horrified at the prospect of having a school of negro girls as his neighbor, addressed the meeting "in a tone of bitter and relentless hostility" to Miss Crandall. After him, Rev. Mr. May and Mr. Buffum presented a letter from Miss Crandall to the Moderator, asking that they might be heard in her behalf. Judson and others at once interposed and prevented their speaking. They had intended to propose that, if the town

would repay Miss Crandall the cost of her house and give her time to remove, she would open her school in some more retired part of the town or vicinity. Doubtless this would not have been satisfactory to the people, but that does not excuse the lack of courtesy on the part of the people in refusing to hear what Miss Crandall's agents had to propose. The resolutions were passed, but nothing deterred the fearless woman. She opened her school with from ten to twenty girls as pupils.<sup>1</sup> This still more enraged the townspeople, and, at a second town meeting, it was resolved: "That the *establishment or rendezvous*, falsely denominated a school, was designed by its projectors, as the *theatre*, as the place to promulgate their disgusting doctrines of amalgamation and their pernicious sentiments of subverting the Union. Their pupils were to have been congregated here from *all quarters*, under the false pretense of *educating them*; but really to SCATTER FIREBRANDS, *arrows*, and *death* among brethren of our own blood." A committee of ten was appointed to draw up and circulate a petition to the General Assembly, "deprecating the evil consequences of bringing from other States and other towns, people of color for any purpose, and more especially for the purpose of disseminating the principles and doctrines opposed to the benevolent colonizing system." Other towns were asked to prefer "petitions for the same laudable object." The people had completely lost their heads and were mad with rage and fear. As a result of this petition, the shameful act of May 24, 1833, before referred to, was passed.

The conduct of the people of Canterbury was even more indefensible than their words. They hunted up an obsolete vagrant law, providing that the selectmen might warn any non-inhabitant of the State to depart, demanding \$1.67 for each week they should thereafter stay, and, if the fine were not paid, or the person were still in the town after ten days, he should be whipped on the bare body, with not over ten

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<sup>1</sup> Pupils came from Philadelphia, New York, Providence, and Boston, says May.

stripes. An endeavor was made to put this law in force against Miss Crandall's pupils, and one of them, Ann Eliza Hammond, a girl of seventeen, from Providence, was arrested. Rev. Mr. May and other residents of Brooklyn gave bonds for \$10,000, so the attempt was given up.

The lawless treatment of the school and scholars was worse than the legal one. The stage-driver refused to carry the pupils to the school, the neighbors refused to give Miss Crandall a pail of water, though they knew their sons had filled her well with stable refuse the night before. Boys followed the school with horns and hootings on the streets, and stones and rotten eggs were thrown at Miss Crandall's windows. A systematic policy of boycotting and intimidation was carried out. The village stores were closed against the school. Men went to Miss Crandall's father, a mild and peaceable Quaker living in the southern part of the town, and told him, "when lawyers, courts and jurors are leagued against you, it will be easy to raise a mob and tear down your house." He was terrified and wished his daughter to yield, but she boldly refused. He petitioned the Legislature against the passage of the act of May 24, 1833, but in vain. The sentiment of men from other towns was that they would not want a negro school on their common.

After the passage of the act, two leading citizens told him "your daughter will be taken up the same way as for stealing a horse or for burglary. Her property will not be taken, but she will be put in jail, not having the liberty of the yard. There is no mercy to be shown about it."

A few days later, Messrs. May and George W. Benson visited Miss Crandall, to advise with her as to the fine and imprisonment provided by the act as penalty for teaching colored children not residing in the State. As Wilson puts it, the result of their conference was a determination to leave her in the hands "of those with whom the hideous act originated."

On June 27, 1833, Miss Crandall was arrested, brought before a Justice of the Peace and committed for trial before



the County Court in August. Mr. May and her friends were told that she was in the sheriff's hands and would be put in jail unless bonds were given. They resolved not to do so, but to force the framers of the statute to give bonds themselves or commit her to jail. The sheriff and jailer saw this would be a disgrace and lingered; but her friends were firm, and Miss Crandall spent the night in a cell which had last been occupied by a condemned murderer. The next morning bonds were given, by whom it does not appear; but the fact of her incarceration caused a revulsion of popular feeling in her favor. Mr. Arthur Tappan wrote at once to Mr. May, indorsing his conduct, authorizing him to spare no reasonable cost in defense at his expense and to employ the ablest counsel.

The Hon. Wm. W. Ellsworth, Calvin Goddard, and Henry Strong were retained and prepared to argue that the laws were unconstitutional. Mr. Tappan took such interest in the case that he left his business to have a personal interview with Miss Crandall and Mr. May. To the latter he said, "The cause of the whole oppressed race of our country is to be much affected by the decision of this question. You are almost helpless without the press. You must issue a paper, publish it largely, send it to all persons whom you know in the country and State, and to all the principal newspapers of the country. Many will subscribe for it and contribute largely to its support, and I will pay whatever it may cost." Mr. May took the advice and started the "Unionist," with Charles C. Burleigh, of Plainfield, as editor.

On August 23, the case of *The State* versus *Crandall* was tried at Brooklyn, before Judge Joseph Eaton; Messrs. A. T. Judson, Jonathan Welch, Esq., and J. Bulkley appearing as counsel for the State. Mr. Judson denied that negroes were citizens in States where they were not enfranchised, and asked why men should be educated who could not be free-men. The defense claimed that the law conflicted with the clause of the United States Constitution allowing to citizens of one State equal rights in others. The judge charged

the jury that the law was constitutional, but the jury disagreed, standing seven for conviction and five for acquittal.

The prosecution did not wait for a new trial in December, but went before the Connecticut Superior Court. Judge Daggett presided over the October Session. According to Mr. May, he was known to be an advocate of the new law, and in the course of an elaborate opinion said, "it would be a perversion of the terms and the well known rule of construction to say that slaves, free-blacks, or Indians were *citizens* within the meaning of the Constitution." The jury gave a verdict against Miss Crandall and her counsel appealed to the Court of Errors. It heard the case on July 22,<sup>1</sup> 1834, and reversed the previous decision, on the ground of "insufficiency of information," and that there was no allegation that the school was set up without a license, and so left the constitutional question unsettled.

Meantime the school had been continued, W. H. Burleigh and his sister and Miss Crandall's sister Almira assisting in the work.<sup>2</sup> They even had at times a sort of exhibition of the pupils' progress. The opposition to the school in Canterbury did not diminish; the trustees of the Congregational church refused to let Miss Crandall and her pupils worship there. The Friends Meeting at Black Hill and the Baptist church at Packerville, both a few miles off, received them, but were almost the only ones to show kindness. Even the physicians of the place refused to attend Miss Crandall's household. After the opponents failed in the courts, they resorted more than before to violent means. Early in September an attempt was made to burn her house, and her enemies went so far as to arrest a colored man she had employed to do some work for her, and to claim she had the fire started to excite sympathy. A still more dastardly attack was made on the building on September 9, by a body of men, who at night broke all the windows and doors with

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<sup>1</sup>A. T. Judson and C. F. Cleaveland for State, W. W. Ellsworth and Calvin Goddard for Miss Crandall.

Larned, II., p. 499.

clubs and crowbars. The house was left nearly uninhabitable. Miss Crandall's friends all advised her to give up the school, and she did so, sending the twenty girls then composing it to their homes. Mr. May said when he gave the advice to yield, the words blistered his lips and his bosom glowed with indignation. "I felt ashamed of Connecticut," he wrote in his Memoirs, "ashamed of my State, ashamed of my country, ashamed of my color."

Miss Crandall was soon after married to Mr. Calvin Philleo and left Canterbury. The town, feeling obliged to justify its conduct, spread upon its records the following resolve: "That the Government of the United States, the nation with all its institutions, of right belong to the white men, who now possess them,...that our appeal to the Legislature of our own State, in a case of such peculiar mischief, was not only due to ourselves, but to the obligations devolving upon us under the Constitution. To have been silent would have been participating in the wrongs intended....We rejoice that the appeal was not in vain."

Here ends the wretched story. But its results were far-reaching. As Larned, the historian of Windham County, well writes, if Miss Crandall did not succeed in educating negro girls, she did in altering the opinions of that part of Connecticut, which became the strongest anti-slavery part of the State.

#### NANCY JACKSON VS. BULLOCH.

This celebrated case, interpreting the acts of 1774 and 1784 and practically ending slavery in Connecticut, deserves especial notice. In this case, the Supreme Court of the State, by a bare majority, decided that the statutes just mentioned "were designed to terminate slavery in Connecticut and that they are sufficient for that purpose. The act of 1774 aimed a blow at the increase of slaves, that of 1784 struck at the existence of slavery. The former was intended to weaken the system; the latter to destroy it. The former lopped off a limb from the trunk; the latter struck a deadly blow at the

root, and ever since it has withered and decayed, and, with the exception of here and there a dying limb, slavery has disappeared from our State and will in a short time be known only in our history, unless indeed it is to revive and flourish, by the construction we shall now give to the statutes. To us it appears as if there was nothing in the intent of the Legislature, or in the words of the act, which requires such a construction.”

The facts of the case were as follows: J. S. Bulloch, a citizen of Georgia, owned a slave, Nancy Jackson, born in Georgia in 1813. In June, 1835, he came to Connecticut and settled at Hartford, to live there temporarily while his children were being educated.

Since that time Nancy had been residing with Bulloch's family in Hartford, while he had only spent the summer in Connecticut, returning to Georgia for the winter. Nancy, through her next friend, brought an action for unjust confinement against Bulloch, and, a writ of Habeas Corpus being sued out, the case was heard in June, 1837. Chief Justice Williams, in giving the opinion of the Court, went over the whole law of slavery, and this makes the decision more valuable. He took the broad ground “that every human being has a right to liberty, as well as to life and property, and to enjoy the fruit of his own labor: that slavery is contrary to the principles of natural right and to the great law of love; that it is founded on injustice and fraud and can be supported only by the provisions of positive law, are positions which it is not necessary to prove.” The defendant admitted that slavery was local and must be governed by State law, and that neither the fugitive slave clause nor any other clause of the United States Constitution applies to this case; therefore he can have no higher claims than an inhabitant of a foreign State. “It cannot be denied that in this State we have not been entirely free from the evil of slavery.... A small remnant still remains to remind us of the fact.... How or when it was introduced into this State we are not

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<sup>1</sup> Conn. Reports, XII., p. 38.

informed....It probably crept in silently, until it became sanctioned by custom or usage." He went on to state that if it depended entirely on that fact, it might be enquired whether the custom was "reasonable," but for a century slavery has been somewhat recognized by statute and thus has received the implied sanction of the Legislature. He then takes up the claims of the plaintiff's counsel that the slaves are freed by the first article of the Bill of Rights, which states that all men are equal in rights "when they form a social compact." This, says the Judge, does not apply, as slaves would not be parties to a social compact, and the article is not as broad as the famous Massachusetts one. Another article of the Bill of Rights states, "the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures"; but the usage of "people" in the United States Constitution proved, according to the court, that the word here need not include slaves. A third article in the Bill of Rights provided that "no person shall be arrested, detained, or punished, except in cases clearly warranted by law." But was this detention warranted by the law? This is to be answered by examination of the statutes; that of 1774 prohibited the importation of slaves into Connecticut, that of 1784 provided that all born "in the State" after March 1 of that year should be free at the age of twenty-five. This last law, Swift thought,<sup>1</sup> "has laid the foundation for the gradual abolition of slavery; for, as the children of slaves are born free, being servants only until twenty-five years of age, the consequence is that as soon as the slaves now in being shall have become extinct, slavery will cease, as the importation of slaves in future is prohibited...As slavery is gradually diminishing and will in a short time be extinguished, there being but few slaves in the State, it will be unnecessary, in this place, to make any remarks upon a subject that has so long engrossed the attention of the humane and benevolent part of mankind in the present age." These words are quoted approvingly and the statement is

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<sup>1</sup> Swift's System, I., 220.



made that, unless there is some defect in the acts, there has been no real slavery in Connecticut since 1784. The acts were passed, not to interfere with vested rights, but to prevent the increase of evils which would result from the competition of slave labor "with the labor of poor whites, tending to reduce the price of their work and prevent their employment, and to bring the free laborer, in some measure, into the ranks with slaves." The Court decided that, though the law of 1774 did not prevent a master transporting a slave through the State, it did prevent him from keeping her there, and that a slave may be "left," "although the owner does not intend to reside permanently himself, or to suffer such slave permanently to remain here." On the construction of this word "left," and on the *post-nati* argument from the act of 1784, the Court declared Nancy free. As to the words "born within this State," in the act of 1784, the Court held "within this State" surplusage, stating, as a reason, that the Legislature could not legislate for any other State. At any rate it is certain that foreigners could claim no more rights than natives, and as natives can only hold persons as slaves under twenty-five years of age, citizens of other States could do no more.

The dissenting judges laid stress on the words "in this State" in the act of 1784, and claimed that "left," in the act of 1774, meant to desert, abandon, withdraw, or depart from, that mere length of stay does not matter, as long as the *animus revertendi* remains. They state, however, they are glad their interpretation does not consign the woman to slavery; though they "maintain that the State of Connecticut, from time immemorial, has been, and to a certain extent now is, a slaveholding State."

This case showed clearly that the judiciary of the State would lean to the side of freedom whenever possible, and virtually made Connecticut a free State by its liberal construction of the laws, though the formal removal of the State from the slaveholding column was not to take place for some ten years more.

## THE NEGROES ON THE "AMISTAD."

In August, 1839,<sup>1</sup> the people of Connecticut, New York and Rhode Island were excited by tidings of a suspicious craft, thought to be a pirate. It was a long, low, black schooner, manned by negroes, and orders were issued to the United States steamer *Fulton* and several revenue cutters to chase her. On August 26, 1839, the United States brig *Washington* was sounding off Culloden Point, lying between Gardner's and Montauk Points. While there, a vessel was noticed lying off the shore and a boat passing between her and the shore, where a number of persons were with carts and horses. Lieut. Gedney, commanding the *Washington*, sent a boat to investigate, and when the vessel was boarded she proved to be manned by negroes, of whom about twenty were on board, together with two white men, who came forward and claimed protection.<sup>2</sup> The story was soon told. The vessel was a slaver, the *Amistad*, which had brought African slaves kidnapped in April, from Lemboko, in the Mendi country, near Liberia. Jose Ruiz bought forty-nine of them and Pedro Montes took four more. These they re-embarked on the *Amistad* at Havana on June 27, 1839, and sailed for Guanajah, Porto Principe. It will be remembered that the slave trade was prohibited by Spain and the Africans so introduced ought still to be free. The trade was, however, carried on surreptitiously to a large extent, and those thus taken to Cuba were called "Bozals," in distinction from the "Ladrinos,"<sup>3</sup> or native slaves. The ship's

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<sup>1</sup> This account is chiefly drawn from Wilson, "Rise and Fall of the Slave Power," Vol. I., pp. 456-466; J. Q. Adams' Diary; Niles' Register; Williams, "Hist. of Negro Race," II., p. 93; Barber, Jno. W., "A History of the *Amistad* Captives...with Biographical Sketches of each of the surviving Africans, also an account of the trials had on their case, etc.," New Haven, 1840; S. E. Baldwin, "The Captives of the *Amistad*," N. H. Col. Hist. Papers, IV., pp. 397-404.

<sup>2</sup> Niles' Reg., Vol. 57, pp. 1. 28. 29.

<sup>3</sup> A false translation of this word in a public document caused great trouble. Niles' Reg., Vol. 59, p. 301.

papers falsely referred to them as "ladrinos," legal slaves. The captain of the ship was Ramon Ferrers, and the crew seems to have consisted of two men and a cook, besides a negro cabin-boy. On the fifth night out from Havana the slaves rose, under the leadership of Joseph Cinquez or Cingue, attacked and slew the captain and cook with knives such as were used to cut sugar-cane, and, according to one story, slew the two men in the crew. The cabin-boy, Antonio, however, said in court that the men lowered a small boat and escaped. Ruiz and Montes were bound and kept alive to navigate the ship. The negroes tried to return to Africa and had the vessel steered eastward by the sun during the day, while by night the white men steered to the north-west, hoping to fall in with a man-of-war or to reach some country. After boxing for four days in Bahamas Channel, they steered for St. Andrew Island, near New Providence; thence to Green Key, where the blacks laid in a supply of water; thence for New Providence, where the negroes would not suffer the vessel to enter port, but anchored off the coast every night. The whites were treated with some severity, and with the constant fear of death staring them in the face, their lot must have been most unenviable. Montes, too, was suffering from two wounds in the head and arm. The ship was three days off Long Island, to the eastward of New Providence, and then two months on the ocean, during which time they were boarded several times by vessels, once by an American schooner from Kingston, which remained alongside for twenty-four hours and traded with the negroes, finding they had plenty of money. This was the Spaniards' story, to which they added that they were always sent below in such cases. Our admiration for Cinquez rises when we consider that, for this long period, he managed to continue his ascendancy over his comrades, especially considering how difficult were the circumstances of the case. On August 20, near New York harbor, a pilot-boat met the *Amistad* and furnished the negroes apples, and when, shortly after, a second one met them, they suspected the whites had taken them to a

strange land and refused to let the pilot board her, while they exhibited such anger towards the Spaniards that they feared for their lives more than ever. On the 24th, off Montauk Light, the Spaniards tried to run the vessel aground, but failed, and the tide drifted it on, until they anchored where they were found. After anchoring, about twenty of the negroes went on shore for water and three of them bought dogs from some of the inhabitants. The news quickly spread. Capt. Green, who came up, according to his report, induced the negroes to promise to give him the ship. They desired him to take them to Sierra Leone. Just then appeared Lieut. Gedney and took possession of the vessel and of the negroes. Before Cinquez would suffer himself to be taken he leapt overboard and loosed from his waist into the water 300 doubloons which he had taken from the captain. The Africans taken were forty-four in number,<sup>1</sup> the rest having died. Of this number, three were girls, the rest men. Cinquez, the leader, was described as about twenty-five or twenty-six years of age, five feet eight inches in height, erect in figure, well built, and very active. His countenance was unusually intelligent; he possessed uncommon decision and coolness, and a composure indicative of much courage. Lieut. Gedney took the *Amistad* with all on board to New London, where a judicial investigation was held on August 29, on board the *Washington*, before the United States District Judge A. T. Judson, whom we have already seen in the *Crandall* trouble. As a result of this examination the Africans were taken to the New Haven jail on Sept. 1, and on the 14th were removed to Hartford, save one left behind on account of sickness. The case now became very complicated. Ruiz and Montes claimed the Africans as their slaves and preferred charges of murder against them. The Africans claimed freedom and, through their friends, preferred charges of assault and battery and of false imprisonment against Ruiz and

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<sup>1</sup> Niles' Reg., Vol. 57, p. 48 and 50. They were shown in Hartford at 12½ cents admission. Wild stories were spread that one of them was a cannibal.

Montes. Lieut. Gedney claimed salvage on vessel, cargo and slaves. Capt. Green and the Long Islanders had a counter claim for the same. The owners of the cargo in Havana claimed it, and the Spanish minister, "forgetful of his country's laws," demanded not only that it, but also that the blacks be given up under the treaty of 1795, that the negroes might be tried in Cuba, and maintained that if they should be tried, convicted and executed in Connecticut, the effect would not be as good as if done in Cuba. The District Attorney, Holabird, claimed that the Africans should be held subject to the President's orders, to be taken back to Africa, according to the Act of 1819, and that, as the Government of Spain had claimed them, they should be kept until the pleasure of the United States be known. Holabird was thoroughly subservient to the slavery interest and wrote to the Secretary of State asking if there were not treaty stipulations which would authorize "our government" to deliver them up to Spain, and if so, "whether it would be done before our court sits," as he did not wish them tried there. The Secretary of State knew there was no such treaty, and if there were, as Wilson well says, the President could not supersede criminal warrants, but he instructed the District Attorney "to take care that no proceedings of your Circuit Court, or any other judicial tribunal, place the vessel, cargo, or slaves ('a gratuitous assumption,' remarks Wilson) beyond the control of the Federal Executive." While the demands of Calderon, the Spanish minister, were supported by the pro-slavery press, the anti-slavery men in New York City appointed a committee, composed of S. S. Jocelyn, Joshua Leavitt, and Lewis Tappan, to solicit funds, employ counsel, and see that the interests of the Africans were carefully cared for. As a result, Seth P. Staples and Theodore Sedgwick, Jr., of New York, were employed as counsel and wrote to President Van Buren denying that these Africans were slaves, contending that, in rising against the whites, they only obeyed the dictates of self-defense, and praying that their case should not be decided "in the recesses of the Cabinet, where these un-



friendly men can have no counsel and can produce no proof; but in the halls of Justice, with the safeguards she throws around the unfriendly and oppressed." The letter was turned over to Felix Grundy, the Attorney General, a violent opponent of emancipation, and one who favored surrender to Spain. He replied he could see no "legal principle upon which the government would be justified in going into an investigation for the purpose of ascertaining the facts set forth in the papers clearing the vessel from one Spanish port to another" as evidence as to whether the negroes were slaves or not. He thought, as the Africans were charged with violation of Spain's laws, they should be surrendered; so that, if guilty, "they might not escape punishment," and that, to fulfil treaty obligations, the President should issue an order, directing the marshal to deliver the vessel and cargo to such persons as Calderon should designate. This Van Buren could not do, as there was no extradition treaty with Spain, which fact Grundy ought to have known. On Sept. 17th, the United States Circuit Court met in Hartford, Judge Thompson presiding, and on the 18th a writ of Habeas Corpus was applied for by the two lawyers mentioned and Roger S. Baldwin of New Haven, in behalf of the three girls, who were only detained as witnesses. On the 21st instant, the same writ was applied for in behalf of the rest of the Africans. Judge Thompson overruled the claim of Lieut. Gedney and Capt. Green for salvage, but refused to grant habeas corpus to any, though ample security were offered, on the ground that the case would first come regularly before the District Court, and the District Court having jurisdiction is bound to provide necessities for the Africans, until their status is determined. Mr. Staples claimed the case should be tried in New York; but the judge decided that, as the ship was taken on the high seas, *i. e.*, beyond low water-mark, the suit should be tried where the vessel was first brought to land. He also decided the Africans should not be held for murder on the high seas.<sup>1</sup> On Oct. 19th, the District Court met, heard testimony, and

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<sup>1</sup> Full text of decision in Niles' Reg., Vol. 57, pp. 73-75.

adjourned to meet in New Haven, Jan. 7th, 1840.<sup>1</sup> On Nov. 26th, 1839, De Argaiz, the new Spanish minister, wrote to the Secretary of State, denying the right of the United States courts to take cognizance of the case, and complained that through their delay, public vengeance had not been satisfied, for Spain "does not demand the delivery of slaves but of assassins." From this high moral tone, he descended in another letter to ask that, on the release of the negroes by the court, the President should order the transportation of the negroes to Cuba in a government vessel. The assurance of this request was not resented by the President. On the contrary, he ordered such a vessel to be ready to take the negroes, if released, to Cuba and deliver them to the Captain General of the island. This vessel, the *Grampus*, was stationed off New Haven, three days after the court assembled, ostensibly to give the negroes "opportunity to prove their freedom." Before the court even assembled, Lieuts. Gedney and Meade of the *Washington* were ordered to be ready to go to Cuba with the negroes at the United States' expense, "for the purpose of affording their testimony in any proceedings that may be ordered by the authorities of Cuba in the matter." This shameful pre-judgment of the case and eager desire to be subservient to the slavery interest is most disgraceful to Van Buren's administration. On Jan. 7th, 1840, the District Court met, and the counsel for the Africans offered such conclusive testimony that the negroes were native Africans and not Spanish subjects, that Judge Judson said the point was clearly proved. Gedney<sup>2</sup> claimed one-third of the vessel and cargo as salvage, which was given him by the Court; but his claim for salvage on the negroes was refused by the Court, as the negroes could not be sold, there being no law to permit this to be done. Green said he did not wish salvage on flesh, but, if the negroes were slaves, he wanted his share.

<sup>1</sup> Full text of proceedings in Niles' Reg., Vol. 57, pp. 222, 223.

<sup>2</sup> The Spanish owners unsuccessfully tried to prevent his getting salvage, on the ground that, as a United States officer, what he did was in the line of his duty and should have no pay.

The Court speedily dismissed his claim and decided that only Antonio, the cabin-boy, should be given up to Spain, and that the rest should be transported to Africa. This decision was made by a strong Democrat and a man in nowise friendly to negroes, as was shown in the Canterbury affair, and is so the more noteworthy.<sup>1</sup> The District Attorney, by order of the Secretary of State, appealed the case and, in his zeal, sent a messenger to Washington to have a clerical mistake in the President's warrant corrected, that the negroes might be held. In returning the warrant, Mr. Forsyth, the Secretary of State, wrote, "I have to state, by direction of the President, that if the decision of the court is such as is anticipated, the order of the President is to be carried into execution, unless an appeal shall actually have been interposed. You are not to take it for granted that it will be interposed." That is, if the counsel for the Africans did not at once appeal, these were to be hurried on the Grampus and taken to Cuba. On the very day<sup>2</sup> the court assembled, Van Buren sent directions to the Marshal for this purpose, and so "flagitious and barefaced was deemed this order," says Wilson, that some of Van Buren's friends said later that it was issued without his knowledge, by his "sanguine and not over-scrupulous Secretary." Justice Thompson affirmed the decision of the District Court *pro forma*, and left the whole matter to be decided by the United States Supreme Court on an appeal. The committee appointed to care for the Africans now prepared for the last appeal, without stint of time or money, and to the four<sup>3</sup> lawyers already employed added John Quincy Adams, with "his great learning and forensic ability, his commanding position and well-earned reputation." As early as Sept. 23d, 1839, we read in the diary of the "old man eloquent," "Mr. Francis Jackson brought me a letter from Mr. Ellis Gray Loring, requesting my opinion upon the knotty questions involved in the case of the Spanish ship

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<sup>1</sup> Niles' Reg., Vol. 57, pp. 336, 352, 384.

<sup>2</sup> April 29, 1840, at New Haven. Niles' Reg., Vol. 58, p. 160.

<sup>3</sup> Mr. Kimberley made the fourth.

Amistad....I desired Mr. J. to say that I felt some delicacy about answering his letter, until Judge Thompson's opinion shall be published and until the final decision of the Government in the whole case." Meantime he asked Jackson to look up the records. Soon after, on Oct. 1st, we read,<sup>1</sup> "that which now absorbs a great part of my time and all my good feelings is the case of fifty-three African negroes, taken at sea off Montauk Point by Lieut. Gedney."<sup>2</sup> He gives a summary of the case up to that date and, on the next day, having thrown himself into the case with all his accustomed zeal and energy, he writes that he has examined all the authorities. "Here is an enormous consumption of time, only to perplex myself with a multitude of questions upon which I cannot yet make up opinions, for which I am willing to be responsible."<sup>3</sup> We hear no more of the case for some time. On Feb. 10th, 1840, he offered a resolution calling upon the President<sup>4</sup> for papers concerning the Amistad and, on May 25th, offered a resolution denouncing the detention and imprisonment of the Africans, which was read but not received.<sup>5</sup> His interest in the case continued, and on Oct. 27th, Ellis Gray Loring and Lewis Tappan called on this dauntless advocate of the right of petition and entreated him<sup>6</sup> to act as assistant counsel for the Africans at the January term of the Supreme Court. He writes: "I endeavored to excuse myself upon the plea of my age and inefficiency, of the excessive burden of my duties....But they urged me so much and represented the case of those unfortunate men as so critical, it being a case of life and death, that I yielded and told them that, if by the blessing of God my health and strength should permit, I would argue the case before the Supreme Court, and I implore the mercy of Almighty God so to control my temper, to enlighten my soul, and to give me utterance, that I may prove myself in every respect equal to the task."<sup>7</sup>

<sup>1</sup> Diary, X., 132.    <sup>2</sup> Diary, X., 133.    <sup>3</sup> Diary, X., 135.

<sup>4</sup> Diary, X., 215. Niles' Reg., Vol. 58, p. 59.

<sup>5</sup> Diary, X., 296.    <sup>6</sup> Diary, X., 358.

<sup>7</sup> Diary, X., 360. Niles' Reg., Vol. 57, pp. 99, 105, 176.

A month later, Nov. 17th, he visited Gov. Baldwin in New Haven and saw the prisoners, thirty-six of whom were confined in one chamber, in size about 30 by 20 feet. All but one of the men seemed under thirty. Three of them tried to read to him from the New Testament, and one wrote a tolerable hand. The chiefs, Cinquez and Grabow, had remarkable countenances, he thought. The people of New Haven, and especially the students in the Yale Divinity School, did not neglect the temporal or spiritual interests of the captives; they fed and clothed them, studied their language, taught them to read and write, and instructed them in the truths of Christianity.

During the following months<sup>1</sup> Mr. Adams busily prepared for the case, being assisted by Mr. Stephen Fox, the British minister. On Feb. 22d, the *Amistad* case came up before the august tribunal. On that day, Attorney-General Henry D. Gilpin spoke for the government and Gov. Baldwin for the captives, in a "sound and eloquent, but exceedingly mild and moderate argument,"<sup>2</sup> which he continued on the next day.

On the 24th, John Quincy Adams rose<sup>3</sup> to speak before an audience that filled, but did not crowd, the court-room, and in which he remarked there were not many ladies. He wrote in his diary: "I had been deeply distressed and agitated till the moment when I rose, and then my spirit did not sink within me. With grateful heart for aid from above, though in humiliation for the weakness incident to the limits of my powers, I spoke for four hours and a half...The structure of my argument...is perfectly simple and comprehensive...admitting the steady and undeviating pursuit of one fundamental principle." Against him "an immense array of power—the Executive Administration, instigated by the minister of a foreign nation, has been brought to bear in

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<sup>1</sup> *Diary*, X., 396, 399, 401. *Niles' Reg.*, Vol. 57, p. 417, Vol. 58, p. 3. Calhoun animadverts on British interference on March 13, 1840. *Niles' Reg.*, Vol. 58, p. 140.

<sup>2</sup> *Diary*, X., 429. <sup>3</sup> *Diary*, X., 431.



this case on the side of injustice....I did not, I could not answer public expectation; but I have not yet utterly failed. God speed me to the end." On the 25th, he spoke for four and a half hours more, and on March 1st, the Court having meantime been in adjournment on account of the sudden death of Mr. Justice Barbour, he spoke four hours more and finished his argument. On the next day Mr. Gilpin closed the case for the United States. Mr. Adams, in his argument, sternly condemned the National Government from the President down.<sup>1</sup> He maintained that these Africans were torn from home and shipped against the laws of the United States and the laws of nations, that their passage on the *Amistad* was in law and fact a continuance of the original voyage, and that sixteen of the number had perished through the cruelty of Ruiz and Montes, on whose souls the ghosts of these slain must sit heavy through the closing hours of life. He animadverted severely on the conduct of the Secretary of State, saying that he ought instantly to have answered the Spanish minister that his demands were inadmissible and that the President had no power to do what was requested. He should have said that he could not deliver up the ship to the owner, for he was dead; that the question depended upon the courts; that a declaration to the President that the courts had no power to try the case involved an offensive demand, and that the delivering the negroes by the President and sending them beyond the seas for trial was making the President "a constable, a catchpole." The Secretary of State had not asserted the rights of the nation against these extraordinary demands. "He has degraded the country in the face of the civilized world, not only by allowing these demands to remain unanswered, but by proceeding, I am obliged to say, throughout the whole transaction, as if the Executive were earnestly desirous to comply with every one of these demands." He said the Spanish minister persisted in his requests because "he was not told instantly, without the delay of an hour, that this government could never admit

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<sup>1</sup> *Diary*, X., 435.

such claims, and would be offended if they were repeated, or any portion of them. / Yet all these claims, monstrous, absurd, and inadmissible as they are, have been urged and repeated for eighteen months on our government, and an American Secretary of State evades answering them—evades it to such an extent that the Spanish minister reproaches him for not answering his arguments.” In his scathing and relentless manner he next proceeded to attack Grundy’s order, mentioned previously, and asking why it was not acted upon, he cried out, “Why did not the President send an order at once to the marshal to seize these men and ship them beyond the seas, or deliver them to the Spanish minister? I am ashamed—I am ashamed of my country, that such an opinion should have been delivered by any public officer, especially by the legal counsellor of the Executive. I am ashamed to stand up before the nations of the earth with such an opinion recorded before us as official, and still more, adopted by a Cabinet which did not dare to do the deed.” Such is a brief outline of his forcible address.

A week later, March 9, Justice Story gave the opinion of the court<sup>1</sup> that the Africans were kidnapped and unlawfully transported to Cuba, purchased by Ruiz and Montes with knowledge of the fact that they were free, and did not become pirates and robbers in taking the *Amistad* and trying to regain their country; that there was nothing in the treaty with Spain which justified a surrender, and that the United States had to respect the Africans’ rights as much as those of the Spaniards. “Our opinion is that the decree of the Circuit Court affirming that of the District Court ought to be affirmed, except so far as it directs the negroes to be delivered to the President to be transported to Africa, in pursuance of the Act of the 3d of March, 1819, and as to this it ought to be reversed, and that the said negroes be declared to be free and be dismissed from the custody of the court and go with-

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<sup>1</sup> Text of decision in Niles’ Reg., Vol. 60, p. 40 ff., *vide* Vol. 60, p. 32. The influence of Great Britain was continuously thrown on the side of freedom. Niles’ Reg., Vol. 59, p. 402.

out day." The battle was won. John Quincy Adams<sup>1</sup> wrote to Lewis Tappan, "The captives are free. The part of the decree of the District Court which placed them at the disposal of the President of the United States to be sent to Africa, is removed. They are to be discharged from the custody of the marshal, free."

A week later,<sup>2</sup> on March 17, Mr. Adams asked Webster, the new Secretary of State, for a public ship to take the Africans home, as the court had taken from them "the vessel found in their possession...and her cargo, their lawful prize of war." Webster, Adams writes in his diary, appeared startled at the idea that the *Amistad* and her cargo were the property of the Africans, but afterwards said he saw no objection to furnish them with a passage in a public ship and would speak of it to the Secretary of the Navy. He, however, finally refused to grant the request.<sup>3</sup>

Lewis Tappan had been largely instrumental in their release. He left his business and traveled for weeks in their behalf, counseling with friends, getting money, and making arrangements to send them to Africa. He exhibited them throughout the North for an admission fee to raise money for their passage. After their release,<sup>4</sup> they were sent to Farmington, Connecticut, for instruction, and many of them learned to speak English and became Christians. Religious people throughout the country became interested in them, and when they went back to Africa on November 25, 1841, five missionaries went with the thirty-five that survived.<sup>5</sup> They landed at Sierra Leone on January 15, 1842, whence the

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<sup>1</sup> Adams wrote on March 17, 1841, strenuously opposing many of the incidental positions taken by the lower courts. Text in full in *Niles' Reg.*, Vol. 60, p. 116.

<sup>2</sup> *Diary*, X., 446. The vessel was sold at New London in October, 1840. The cargo was also sold, the whole bringing about \$6000. *Niles' Reg.*, Vol. 59, pp. 144, 318, 347.

<sup>3</sup> *Niles' Reg.*, Vol. 62, p. 144.

<sup>4</sup> *Diary*, X., 450. *Niles' Reg.*, Vol. 60, p. 64; Vol. 62, pp. 17, 128, 311.

<sup>5</sup> *Niles' Reg.*, Vol. 62, pp. 96, 224.

British Government assisted them home, and from this band of negroes in the *Amistad* sprung the Mendi Mission.<sup>1</sup>

In 1844, C. J. Ingersoll,<sup>2</sup> Chairman of the Committee of Foreign Affairs of the House of Representatives, reported a bill to pay \$70,000 to the pretended owners of the Africans; but the burning words of Giddings and Adams secured the passage of a motion to lay on the table and prevented that national disgrace. As late as 1847, however, Polk, in his message, recommended an appropriation to the Spanish Government to be distributed among the claimants.<sup>3</sup>

Of the fifty-three Africans on the *Amistad* when it left Cuba, nine died on the way, eight at New Haven, and one at Farmington, while Cinque and thirty-four others lived to return home.<sup>4</sup>

#### GROWTH OF THE ANTI-SLAVERY SPIRIT.

The coming of the Revolution caused men to question the rightfulness of holding one's fellow-man in bondage, and the article in the *Norwich Packet* and the resolutions of the Danbury town meeting, already quoted, clearly show this. The feeling spread. In 1778, the Wethersfield town records show a slave, Prince, manumitted, on his master's "being convinced<sup>5</sup> of the injustice of the general practice of the country in holding negro slaves, during life, without their consent."

Many other such instances are doubtless hidden away in the manuscripts of the Town Clerks' offices, but the only other one I have come across is that of Abijah Holbrook,

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<sup>1</sup> On February 27, 1843, President Tyler recommended Congress, by a special message, to refund the salvage on the *Amistad* to the Spanish Government. Niles' Reg., Vol. 64, p. 66.

<sup>2</sup> Adams issued an address to his constituents on this subject concerning this. The text is in Niles' Reg., Vol. 68, p. 85.

<sup>3</sup> Niles' Reg., Vol. 73, Dec. 11, 1847.

<sup>4</sup> Niles' Reg., Vol. 60, pp. 206, 208, 400. The cabin-boy Antonio was to have been returned to Cuba, but escaped. Niles' Reg., Vol. 60, p. 96.

<sup>5</sup> Mag. of Am. Hist., XXI., 422.

who came from Massachusetts to Torrington in 1787, and in 1798 freed his slave, "then about 28 years old" and "desirous of being free,...being influenced by motives of humanity and benevolence, believing that all mankind by nature are entitled to equal liberty and freedom." His negroes, he said, "have served me with faithfulness and fidelity, and they being now in the prime and vigor of life, and appear to be well qualified, as to understanding and economy, to maintain and support themselves by their own industry, and they manifesting a great desire to be delivered from slavery and bondage," he grants their desire. Before that, however, an organized anti-slavery sentiment had arisen. In February, 1789, the Rhode Island<sup>2</sup> Anti-Slavery Society was founded, with Jonathan Edwards the younger, pastor of a New Haven church, as one of the members. In Connecticut there were less than 3000 slaves, yet "the strong pro-slavery feeling and conservative interest which obtained there opened a wide and important field for an Abolition Society." So, in 1790, the Connecticut Anti-Slavery Society<sup>3</sup> was formed, with President Ezra Stiles, of Yale College, as its president, and Simeon Baldwin as its secretary.

The Society speedily showed great activity. On January 7, 1791, it issued a petition<sup>4</sup> to Congress, which was referred to a special committee and never more heard of.

In the petition,<sup>5</sup> the Society, though "lately established," claims it has "become generally extensive through the State, and we fully believe embraces on this subject the sentiments of a large majority of the citizens. From a sober conviction of the unrighteousness of slavery, your petitioners have long beheld with grief a considerable number of our fellow-men

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<sup>1</sup> Orcutt's "Hist. of Torrington," p. 212.

<sup>2</sup> Wilson, "Rise and Fall," I., p. 26.

<sup>3</sup> Poole, "Anti-Slavery Opinions before 1800," p. 50.

<sup>4</sup> Presented to Congress, Dec. 8, 1791. Wilson, "Rise and Fall," I., p. 67.

<sup>5</sup> Found in "Memorials presented to Congress by Different Societies instituted for promoting the Abolition of Slavery." Phila., 1792, pp. 7-11.



doomed to perpetual bondage, in a country which boasts of her freedom... The whole system of African slavery is unjust in its nature, impolitic in its principles, and in its consequences ruinous to the industry and enterprise of the citizens of these States." They pray that Congress should, by constitutional means, "prevent, as much as possible, the horrors of the slave-trade,... prohibit the citizens of the United States from carrying on the trade,... prohibit foreigners from fitting out vessels... in the United States for transporting persons from Africa,... and alleviate the sufferings of those who are now in slavery, and check the further progress of this inhuman commerce."

The same year<sup>1</sup> in which this temperate appeal was written, Jonathan Edwards, Jr., speaking before the Connecticut Society, said, "Every man who cannot show that his negro hath by his voluntary conduct forfeited his liberty, is obliged immediately to manumit him." "To hold a man in a state of slavery who has a right to his liberty, is to be every day guilty of robbing him of his liberty, or of man-stealing, and is a greater sin in the sight of God than concubinage or fornication." In these trenchant words, as Wilson truly remarks,<sup>2</sup> "was clearly promulgated the duty of immediate emancipation, as distinctly as it has ever been enunciated... before or since."

Though not so extreme as this, when a proposition for a duty on slaves was before the Congress of the United States, at about the same time, Roger Sherman objected to this being included in the general import bill, saying,<sup>3</sup> "He could not reconcile himself to the insertion of human beings as a subject of import, among goods, wares, and merchandise." On this same subject, some years later, Roger Griswold spoke

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<sup>1</sup> "Injustice and Impolicy of the Slave Trade and of the Slavery of the Africans, illustrated in a sermon before the Connecticut Society for the promotion of freedom and for the relief of persons unlawfully holden in Bondage, at their annual meeting." By Jonathan Edwards, D. D., New Haven, Sept. 15, 1791.

<sup>2</sup> Wilson, "Rise and Fall," I., 27.

<sup>3</sup> Wilson, "Rise and Fall," I., p. 56.

against laying a tax on imported slaves,<sup>1</sup> though he was opposed to the slave-trade, lest it should seem the United States raised money from commerce in slaves. The mass of the citizens of Connecticut at this time were evidently abolitionists of a moderate type, believing, as did the Fathers of the Republic, that emancipation would come gradually. Meantime the movement towards liberty was growing, and when the Anti-Slavery Societies became strong enough to hold their first Convention at Philadelphia, on January 1, 1794, the Connecticut Society was represented by Uriah Tracy. On the 8th of May of the same year,<sup>2</sup> the day of the inauguration of the Governor, the Society was entertained by an address at the North (now Centre) Meeting House, delivered by Theodore Dwight, its secretary. His address was published, and it was probably from having seen or heard of it that Bishop Gregoire mentioned Dwight in the list of fifteen to whom he dedicated his "Literature of Negroes." In this list, it may be remarked, were the names of two other Connecticut men: Joel Barlow and Col. Humphreys.

At the time of Dwight's address, there were Committees of Correspondence at Hartford,<sup>3</sup> and in New London, Windham and Tolland Counties. When the second Anti-Slavery Convention met at Philadelphia in 1795, Connecticut was represented by Jonathan Edwards, Uriah Tracy, and Zephaniah Swift. The first of these was made chairman of the committee on business, and prepared an address to South Carolina,<sup>4</sup> appealing for "a numerous class of men, existing among

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<sup>1</sup> In 1804. Wilson, "Rise and Fall," I., p. 87.

<sup>2</sup> Poole, "Anti-Slavery Opinions before 1800," pp. 50, 80. "Oration Spoken before the Conn. Society for the Promotion of Freedom and the Relief of Persons unlawfully Held in Bondage, Convened at Hartford on the 8th Day of May, 1794, by Theodore Dwight." Hartford, 1794, pp. 24, 8vo. At that time Chauncey Goodrich was vice-president and Ezekiel Williams assistant secretary.

<sup>3</sup> At Hartford the Committee consisted of Dr. Lemuel Hopkins, Theodore Dwight, Thomas Y. Seymour, and Ezekiel Williams, Jr. Trumbull's "Memorial Hist. of Hartford Co.," Vol. I.

<sup>4</sup> Poole, "Anti-Slavery Opinions," pp. 28, 77.

you, deprived of their natural rights and forcibly held in bondage." He called on the State to improve their condition and to educate them, and stated that by the slave-trade, of necessity, "the minds of our citizens are debased and their hearts hardened, by contemplating these people only through the medium of avarice or prejudice."

The early anti-slavery feeling,<sup>1</sup> however, gradually died away in Connecticut, as elsewhere, and was succeeded by the colonization idea, as advanced by the American Colonization Society, of which Dr. Leonard Bacon wrote, "It is not a missionary society, nor a society for the suppression of the slave-trade, nor a society for the improvement of the blacks, nor a society for the abolition of slavery; it is simply a society for the establishment of a colony on the coast of Africa." In the same line of thought, the New Haven *Religious Intelligencer* condemned measures calculated to bind the colored people to this country, by seeking to raise them to a level with the whites, whether by founding colleges or in any other way, "because it would divert attention and counteract and thwart the whole plan of colonization." It was this same spirit that aroused the opposition to Miss Crandall, and which opposed the attempt of a convention of free colored people in Philadelphia in 1831 to establish a collegiate school on the manual labor plan at New Haven. The idea of this convention was to raise \$20,000 for this school, of which they stated \$1000 was already offered, provided the rest should be subscribed. The reasons for their selecting New Haven were these: the site of the town was healthy and beautiful; the inhabitants friendly, pious, generous, and humane; the laws of Connecticut salutary and protected all without regard to complexion; the boarding there was cheap and the provisions good; the situation was as central as any that could be obtained with the same advantages; the extensive West India trade of New Haven might induce many wealthy colored inhabitants of the West Indies to send their

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<sup>1</sup> Wilson, "Rise and Fall," I., p. 215.

sons there for an education; and lastly, the literary and scientific character of New Haven renders it a desirable place to locate their college.<sup>1</sup>

The plan was not looked upon with any pleasure in New Haven, and "created the most profound excitement and called forth the most determined resistance." The Mayor called a public meeting "to take into consideration a scheme said to be in progress for the establishment in this city of a college for the education of colored youth." At the meeting held September 8, 1831, resolutions were passed "that we will resist the establishment of the proposed college in this place by every lawful means," and, in the preamble, the citizens expressed their conviction that immediate emancipation and the founding of colleges for colored persons were unwarrantable and dangerous interference with the internal concerns of the State, which ought to be discouraged. To these sentiments only one man, the Rev. Simeon S. Jocelyn, entered a protest. This opposition of the residents of New Haven rendered any attempt to carry out the convention's scheme futile. The party of the *status quo ante* was triumphant throughout the State; but, as often when the hour is the darkest, the daylight was at hand.

However, there had never been lack of men to protest against human slavery, and the halls of Congress had often heard bold sentiments from Connecticut men. In November, 1797, when the Pennsylvania Quakers complained to Congress that slaves emancipated by Friends in North Carolina had again been made slaves, Allen of Connecticut said he trusted the petition would not be rejected, as that would be disrespectful to a society revered by every man who sets value on virtue. In December, 1799, when the Southerners were raging on account of a petition from the negroes of Philadelphia for gradual emancipation, Edmond of Connecticut said they were acting with "inattention that passion alone could dictate." In the session of 1806-7, when South-

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<sup>1</sup> Williams, "Negro Race," II., pp. 63, 64. Fowler, "Hist. Status," p. 151.

erners sneered at the North's opposition to the slave-trade, Moseley of Connecticut said if any of his section were convicted of being in the slave trade, his constituents would thank the South for hanging them.<sup>1</sup> In January, 1818, when a bill to enforce the fugitive slave law was under debate, Williams of Connecticut opposed a clause permitting freemen to be dragged to another part of the country, saying, "In attempting to guard the rights of property to one class of citizens, it was unjust that the rights of another class should be put in jeopardy."

In 1833, however, the influence of those in favor of immediate abolition of slavery began to be felt in Connecticut, contending with the pro-slavery and colonization influences. In that year, the New Haven Anti-Slavery Society was founded, being one of the first societies<sup>2</sup> based on the principle of immediate, unconditional abolition. It sent its greetings to the old Pennsylvania Abolition Society, and received from it a cordial response. Among the leading spirits of the Connecticut Society were two clergymen,<sup>3</sup> Samuel J. May and Simeon S. Jocelyn, both of whom were prominent at the organization of the American Anti-Slavery Society in December, 1833.

The feeling of the learned and powerful city of New Haven was further shown in the public meeting called by the Mayor and Council of the city to consider the report and resolutions of Charleston, S. C., held August 10, 1835, and sent to each incorporated city and town in the United States. Charleston's resolves were concerning "societies and individuals who have circulated incendiary publications through some of the Southern States," and were violently against anti-slavery publications. Henry S. Edwards acted as president of the New Haven meeting, and Noah Webster and David Daggett as vice-presidents. It passed resolutions condemning abolitionist publications, denouncing their being sent by mail,

<sup>1</sup> Wilson, "Rise and Fall," I., pp. 73, 77, 82, 96.

<sup>2</sup> Wilson, "Rise and Fall," I., p. 25.

<sup>3</sup> May was Vice-President. Wilson, "Rise and Fall," I., 250 and 260.



quoting a report of a committee of Congress in 1790 that that body "have no authority to interfere in the emancipation of slaves, or in the treatment of them in the different States, it remaining with the several States alone to provide any regulations therein which humane and true policy may require." To this utterance of non-interference, they coupled another quotation from a letter of Oliver Wolcott, Sr., to his son of the same name. "I wish that Congress would prefer the white people of this country to the black. After they have taken care of the former, they may amuse themselves with the other people."<sup>1</sup>

Hartford held a similar meeting on Sept. 26, 1835, and, with Isaac Toucey as president and Elisha Phelps and Joseph Platt as vice-presidents, affirmed that "certain persons in the Middle and Eastern States have formed associations for the avowed purpose of effecting the abolition of slavery in the other States, and in pursuance of said design, have established a press from which they issued several newspapers and periodicals devoted to the aforesaid objects and filled with the most inflammatory matter, whereby the confederacy is endangered."

In that same year a negro woman,<sup>2</sup> who had fled from her master and lived in Hartford as a servant for several years, met a nephew of her former master on the streets of the city. He spoke kindly to her and told her his family had ceased to count her as their property, and that he had only friendly feelings for her. He continued that he had some clothing for her at the hotel where he was stopping, which he asked her to

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<sup>1</sup>Another resolution favored colonization in Africa. Fowler, "Local Law," pp. 96, 97. Full text in Niles' Reg., Vol. 49, p. 73. R. S. Baldwin opposed these resolutions. On the same page in Niles' Reg. is a letter copied from the *Middletown Advocate*, and written by Rev. Wilbur Fisk, first President of Wesleyan University, stating that though he wished "freedom to the slave," he would sign no petitions for abolition of slavery, as "the ultra-abolitionists, by their imprudent movements and ill-timed and ill-managed system of agitation have, as I think, removed all hope of success in any measure of this kind at the present time."

<sup>2</sup>Trumbull's "Hartford County," I., 609.

go with him and get. She incautiously went to his room on the third floor, when he locked the door to hold her prisoner. She rushed to the front window and leapt out, and, falling on an awning, escaped alive. Mr. Elisha Colt, in whose family she served, raised a purse and bought her, that he might set her free.

Another fugitive slave in Hartford was Rev. James Pennington, D. D., who, escaping when a boy, was educated abroad at Heidelberg. He became pastor of the Talcott St. Church in Hartford, and being fearful of capture after the passage of the fugitive slave law of 1850, induced Gen. Joseph R. Hawley, then a young lawyer in the office of John Hooker, Esq., to visit his former owner and buy him for Mr. Hooker. Mr. Hooker held the deed for a day, to enjoy the sensation of owning a doctor of divinity, and then emancipated him.

In 1836<sup>1</sup> the Connecticut Society, urged on by the Crandall case, started the *Christian Freeman* at Hartford, with Wm. H. Burleigh as editor. In 1845, that paper was merged in the *Charter Oak*, whose office was mobbed by a Democratic mob during the Mexican War, on account of the outspoken character of its sentiments. The *Charter Oak* was merged in the *Republican* in later years, that in the *Evening Press*, and that in the well known *Hartford Courant*.<sup>2</sup>

Under the stimulus of the zeal of the leaders of this new movement, violent discussion and debate sprang up throughout the State.<sup>3</sup> Amos A. Phelps, a brilliant and able speaker, a native of Farmington, took the matter up in that town, and the church in the town was nearly rent in twain from the violence of the parties.<sup>4</sup> What nearly happened in Farmington came to pass in Guilford, where the pastor

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<sup>1</sup> The increased interest in the subject is shown by the number of pamphlets issued upon slavery in Connecticut about this time.

<sup>2</sup> Trumbull's "Hartford County," I., p. 609.

<sup>3</sup> Niles' Reg., Vol. 56, p. 410, has a long letter from Roger M. Sherman, dated June 26, 1838, written to the National Anti-Slavery Society, in which, in dignified language, he states his opposition both to slavery and the methods of the abolitionists.

<sup>4</sup> Trumbull's "Hartford County," II., p. 192.

changed from the advocacy of colonization to that of abolition, and caused such a bitter dissension that, though he eventually resigned and left the town, his followers, who constituted a minority in the old church, left and established another one, which remains separate to this day. In that town the use of the church was refused the local Anti-Slavery Society for its meetings, and in Norwich, which, on Oct. 14, 1800, had directed its selectmen to instruct the town's representatives "to use their influence in obtaining a resolve... prohibiting the migration of negroes...from other States into this State," now the inhabitants in town meeting "Resolved that, as it is the duty of every good citizen to discountenance seditious or incendiary doctrines of every sort, we do deny entirely the use of the Town Hall, or of any other building belonging to the town, for any purpose connected in any way with the abolition of slavery."<sup>1</sup>

Miss Abbey Kelley,<sup>2</sup> a Quakeress, who spoke against slavery, was denounced from the pulpits in Litchfield County as "that woman Jezebel, who calleth herself a prophetess to teach and seduce my servants"; but she and others gathered so many adherents that in January, 1837, a meeting was held at Wolcottville to organize an anti-slavery society. The gathering had to be in a barn, as churches and other public places were closed. Even there a mob broke up the meeting, which adjourned to Torrington Church, where it continued two days. The Litchfield County Sociey<sup>3</sup> so formed soon began holding monthly meetings in barns, sheds, and groves, and propagating its tenets by lectures, tracts, etc.

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<sup>1</sup> Caulkins, "Norwich," p. 568.

<sup>2</sup> Orcutt's "Torrington," pp. 212, 218. For the opposition an early anti-slavery advocate received in Washington, Litchfield County, see "The Master of the Gunnery," a memorial volume to F. W. Gunn.

<sup>3</sup> Roger S. Mills of New Hartford was made president, Erastus Lyman of Goshen vice-president, with Gen. Daniel B. Brinsmade of Washington, Gen. Uriel Tuttle of Torrington, and Jonathan Coe of Winsted. Rev. R. M. Chipman of Harwinton was made secretary, and Dr. E. D. Hudson of Torrington treasurer. Torrington was the birthplace of John Brown of Ossawatimie and Harper's Ferry fame.

From 1840 onward, the progress of anti-slavery sentiments in Connecticut was gradual.<sup>1</sup> In 1840 she cast 174 votes for Birney; in 1844 she gave him 1943; in 1848 Van Buren received 5005; in 1852 Hale obtained 3160. Then under the influence of the Kansas-Nebraska Bill the State rapidly moved towards abolitionism. In 1854 the Anti-Nebraska candidate for Governor polled 19,465 votes; in 1856 Fremont carried the State and received 42,715 votes, and Connecticut was placed in the ranks of the Republican States for many years.

#### SOCIAL / CONDITION OF SLAVES.

The slave showed the usual imitation of his white masters. We read of negro balls, negro governors, and negro training days. In religious affairs they, for the most part, were of the Congregational faith; few became Baptists or Methodists, as at the South. The annual election of a negro Governor<sup>2</sup> was a great event, and one, as far as I know, unique to Connecticut. It occurred as recently as 1820, and came off generally on the Saturday after election day. It was participated in by all the negroes in the capital, and not only a governor, but also minor officers were chosen. They borrowed their masters' horses and trappings and had a grand parade after the election. "Provisions, decorations, fruits, and liquors were liberally" given them. "Great electioneering prevailed, parties often ran high, stump harangues were made, and a vast deal of ceremony expended in counting the votes, proclaiming the result, and inducting the candidate into office, the whole too often terminating in a drunken frolic, if not a free fight," says one writer. Scaeva, in his "Sketches of Hartford in the Olden Time," adds other

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<sup>1</sup> On Dec. 26, 1843, J. Q. Adams notes in his Diary that he presented a petition from Connecticut for the abolition of slavery and the slave trade in the District of Columbia. Diary, XI., 461. In 1845 the Abolition or Liberty nominated full State and Congressional tickets. Niles' Reg., Vol. 68, p. 23. 1841 is the earliest year in which I find an Abolition State ticket. Niles, Reg., Vol. 62, p. 80.

<sup>2</sup> Caulkins, "Norwich," pp. 330. Stiles, "Windsor," I., 490.

touches. The negroes, "of course, made their election to a large extent deputatively, as all could not be present, but uniformly yielded to it their assent....The person they selected for the office was usually one of much note among themselves, of imposing presence, strength, firmness, and volubility, who was quick to decide, ready to command, and able to flog. If he was inclined to be arbitrary, belonged to a master of distinction, and was ready to pay freely for diversions—these were circumstances in his favor. Still it was necessary he should be an honest negro, and be, or appear to be, wise above his fellows." What his powers were was probably not well defined, but he most likely "settled all grave disputes in the last resort, questioned conduct, and imposed penalties and punishments sometimes for vice and misconduct." Such an officer is a remarkable instance of the negro's power of mimicry. In his election parade "a troop of blacks, sometimes one hundred in number, marching sometimes two and two on foot, sometimes mounted in true military style and dress on horseback, escorted him through the streets with drums beating, colors flying, and fifes, fiddles, clarionets, and every 'sonorous metal' that could be found, 'uttering martial sound.' After marching to their content, they would retire to some large room, which they would engage for the purpose of refreshments and deliberation."

In Norwich,<sup>1</sup> it would seem there was a special Governor for the negroes; for the graveyard contains a stone: "In memory of Boston Trowtrow, Governor of the African tribe in this Town, who died 1772." After him ruled Sam Huntington, slave of the Governor of the same name, and he is described as, "after his election, riding through the Town on one of his master's horses, adorned with painted gear, his aids on each side, *à la militaire*, himself puffing and swelling with pomposity, sitting bolt upright and moving with a slow majestic pace, as if the universe was looking on. When he mounted or dismounted his aids flew to his assistance, hold-

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<sup>1</sup> Caulkins, "Norwich," p. 330. *Vide* Fowler, "Hist. Status," p. 81.



ing his bridle, putting his feet into the stirrup, and bowing to the ground before him. The Great Mogul in a triumphal procession never assumed an air of more perfect self-importance than the negro Governor."

Of negro trainings, Stiles in his "Ancient Windsor" tells amusing tales, and doubtless such occurred in many other towns where there were sufficient blacks.

The Connecticut negroes, when freed, often left the State, and we have record that, when Massachusetts passed an act on March 26, 1788, that "Africans, not subjects of Morocco or citizens of one of the United States, are to be sent out of the State," there were found nine negroes and twelve mulattoes from Connecticut, though apparently not citizens of that State, as they were ordered to leave Massachusetts by a given day.<sup>1</sup> We hear but little of fugitive slaves. Occasionally we come across advertisements in the old Connecticut papers for runaways, but these are but few and disappear as the years pass by.<sup>2</sup> Generally slaves were "most tenderly cared for" in the families of their masters until death, and were sold but seldom.<sup>3</sup> Emancipations, beginning to be common just before the Revolution, increased more as time went on, and we frequently find applications on record to the selectmen to free the masters from responsibility in case of emancipating slaves.

It is said that at Torrington, when three men, joint owners of a female slave, in her old age hired her out to be cared for by a colored man, some indignation was raised.

When emancipated, it is noticeable that the negroes, with their gregarious tendencies, left the country places and congregated in the larger towns.<sup>4</sup> For example, in Suffield, where slaves were found as early as 1672, when Harry and Roco, Major Pyncheon's negroes, helped build the first saw-

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<sup>1</sup> Moore, "Notes on Slavery in Mass.," pp. 232-235.

<sup>2</sup> *Vide* Mag. of Am. Hist., XV., 614.

<sup>3</sup> Mag. of Am. Hist., XV., 614. N. H. Gazette, 1787.

<sup>4</sup> Mag. of Am. Hist., XXI., 422. Caulkins, "Norwich," p. 330. Trumbull's "Hartford County," II., p. 199.

mill, and where before 1740 there were but few slaves, mostly owned by magistrates, parsons, and tavern-keepers, the number of negroes was twenty-four in 1756; thirty-seven in 1774; fifty-three in 1782; twenty-eight in 1790; four in 1800. The last of these was manumitted in 1812, and after a few years none were left in the town. They had been a social, happy race, some of whom had married there, and all of whom had been well cared for by their masters,<sup>1</sup> but when freed they all drifted away to the cities, where they could have the society of others of their race. In the cities, special effort was made for the spiritual welfare of the negroes. In 1815<sup>2</sup> the Second Church of Norwich, under the leadership of Chas. F. Harrington, began a Sunday School for blacks, and later the Yale students in New Haven took up the same work in the Temple Street and Dixwell Avenue Schools, the latter of which is still maintained.

In general, Connecticut has little to be ashamed of in her treatment of the negroes. She treated them kindly as slaves and freed them gradually, thus avoiding any violent convulsion. Though opposed to abolitionism and interference with slavery in another State, until the aggressive character of the slaveholding power was clearly manifested, she then swung into line with the rest of the Northern States to do away with it from the soil of the whole country.

There is a steady and progressive development of the conduct of the State towards slavery. Beginning with a survival of the idea that captives in war were slaves, as shown in the conduct towards the Pequods, Connecticut acquiesced thoroughly in the principles of slavery through all the Colonial period. Her treatment of the slaves was almost always kind and generous. A master, in true patriarchal style, regarded them as in truth a part of his family.<sup>3</sup> With the coming of the

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<sup>1</sup> Trumbull's "Hartford County," II., p. 406. Fowler, "Hist. Status," p. 149, says in Durham in 1774 there were 44 negroes, in 1868 only 3.

<sup>2</sup> Caulkins, "Norwich," p. 556. Fowler, "Hist. Status," p. 150, speaks of eight negro churches in the State in 1873.

<sup>3</sup> Fowler, "Hist. Status," pp. 81-83, gives many interesting instances of this.

Revolution and the struggle of the Colonists for freedom, a feeling arose that it was not just to hold other men in bondage, and as a result, importation of slaves was forbidden in 1774. Negroes were allowed to fight side by side with the whites, and gradual emancipation was begun in 1784. The claims of the masters were, however, respected by saving their right to those they then held as slaves, and though manumission was encouraged, the law put wise restrictions on the cruelty which would employ a man's best years in labor for another and leave him to be supported by public alms at last.

The case of Miss Prudence Crandall and of the *Amistad* proved effective reinforcements to the arguments of the Abolitionists, and the case of Jackson versus Bulloch showed that the courts were inclined towards the support of liberal interpretations of the anti-slavery laws. So when the formal abolition of slavery came in 1848, it found few to be affected by its provisions. The movement against slavery went on. From abolishing slavery within its borders, the State went on to forbid the seizure of a slave on its soil, and then gladly joined with the other Northern States in the great struggle which ended in the destruction of slavery throughout the United States.<sup>1</sup>

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<sup>1</sup> In 1865, the question of negro suffrage was submitted to the voters and decided adversely by a vote of 27,217 to 33,489. In May, 1869, the legislature, by a party vote, adopted the Fifteenth Amendment to the United States Constitution. The vote in the Senate stood 12 to 5, in the House 126 to 104. Fowler. p. 266.

## APPENDIX.

In addition to the works quoted in the body of the monograph, the following may be mentioned as a part of the bibliography of this subject:

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*Dickinson, James T.* "Sermon delivered in the Second Congregational Church, Norwich, July 4, 1834, at the Request of the Anti-Slavery Society of Norwich and Vicinity." Norwich, 1834.

*Fisk, Wilbur.* "Substance of an Address delivered before the Middletown Colonization Society at the Annual Meeting, July 4, 1835." Middletown, 1835.

*Porter, Jacob,* translator. "The Well-spent Sou, or Bibles for the Poor Negro." New Haven, 1830.

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*Tyler, E. R.* "Slaveholding a Malum in Se or Incurably Sinful." (2 editions.) Hartford, 1839.

"Fruits of Colonization—the Canterbury Persecution." 1833.

*May, Samuel J.* "The Right of Colored People to Education vindicated—Letters to Andrew T. Judson, Esq., and others in Canterbury, relative to Miss Crandall and her School for Colored Females." 1833.

*Van Buren, Martin.* Message, 1840 (Amistad).

*Baldwin, Roger S., and Adams, John Q.* "Arguments before the United States Supreme Court in the Case of the African, Cinquez or Jinque."

## SLAVES AND FREE NEGROES IN CONNECTICUT.

	<i>Slaves.</i>	<i>Free Negroes.</i>
1680,	30, (Answers to Board of Trade),	...
1715,	1,500, (Niles' Register, vol. 68, p. 310),	...
1730,	700, (Answers to Board of Trade),	...
1756,	3,634, (Fowler, "Hist. Status," p. 150),	...
1762,	4,590, (Stiles MSS.),	...
1774,	6,562, (Fowler, "Hist. Status," p. 150),	...
1782,	6,281, " " "	...
1790,	2,759, (U. S. Census),	2,801
1800,	951, " "	5,330
1810,	310, " "	6,453
1820,	97, " "	7,844
1830,	25, " "	8,047
1840,	17, " "	8,105
1850,	... " "	7,693
1860,	... " "	8,627
1870,	... " "	9,668
1880,	... " "	11,547
1890,	... " "	12,302

N. B. Negroes on the *Amistad* not counted in 1840.



XI-XII

LOCAL GOVERNMENT  
IN THE  
SOUTH AND THE SOUTHWEST  
  
POPULAR ELECTION  
OF  
UNITED STATES SENATORS



JOHNS HOPKINS UNIVERSITY STUDIES  
IN  
HISTORICAL AND POLITICAL SCIENCE  
HERBERT B. ADAMS, Editor

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History is past Politics and Politics present History.—*Freeman*

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ELEVENTH SERIES

XI-XII

LOCAL GOVERNMENT IN THE SOUTH AND  
THE SOUTHWEST

BY PROF. EDWARD W. BEMIS, PH. D. (J. H. U.),  
AND  
*Students in Vanderbilt University*

POPULAR ELECTION OF U. S. SENATORS

BY JOHN HAYNES,  
*Graduate Student in Johns Hopkins University*

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## CONTENTS.

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INTRODUCTION .....	7
NORTH CAROLINA .....	12
TENNESSEE .....	24
LOUISIANA .....	28
ALABAMA .....	29
GEORGIA .....	38
MISSISSIPPI .....	47
SOUTH CAROLINA .....	49
FLORIDA .....	50
TEXAS .....	52
ARKANSAS .....	64
KENTUCKY .....	69
MISSOURI .....	80
POPULAR ELECTION OF U. S. SENATORS .....	95
INDEX TO ELEVENTH VOLUME .....	109





# LOCAL GOVERNMENT IN THE SOUTH AND THE SOUTHWEST.

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## INTRODUCTION.

The following papers on local government in the South were undertaken by the writers when seniors or graduate students in my classes at Vanderbilt University, 1891-2. In all cases, save Missouri, it was possible for the investigator to take his own State or the State in which he had recently resided.

It is believed that the recent growth here shown of local government in Kentucky, Texas, Mississippi, Florida, South Carolina, Georgia, Missouri, and Arkansas, will appear significant of greater changes in the future. There is confirmation of my statement of ten years ago: "As the New England town was built up about the church, so the Western and Southern town is centering its political activity about the school."<sup>1</sup>

Wherever there is in any Southern State any consideration at all by the voters of local taxes for any local purpose, the purpose is almost sure to be the improvement of the public school. The rapid growth of the public school system in the South will certainly strengthen this beginning of local government. Then we must observe the great number of small incorporated towns or villages in this section, where as few as 500 inhabitants in a hamlet often secure considerable rights of government in a municipal organization.

It will be of great interest to the general reader or the student of political science to note the proof in North Caro-

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<sup>1</sup> Johns Hopkins University Studies in Historical and Political Science, Vol. I., No. 5.

lina that it is impossible to force upon a State institutions of a higher type than the intelligence, habits and prejudices of the average voter have prepared him to use. The failure of the town-meeting in North Carolina when introduced by a carpet-bag government teaches a valuable lesson. Even in that State, however, especially in its western part, where the percentage of whites, and probably of intelligence, is higher than in the eastern part, there is, as I have discovered in traveling through it, a growing desire for a gradual abandonment of what is now the most complete system of State control and centralization of local government in this country.

Whatever may have been the influence of early geographical, religious and social conditions in diverting the South from a development of local government such as Jefferson praised in New England and wanted in the South, I am convinced that its rapid growth now is prevented only by the presence of a large colored population that is considered as yet incapable of making wise use of democratic institutions.

In Kentucky in 1890 there were only 14.4 colored to every 85.6 white, and not a county in which the colored were in the majority. In Missouri there were only 5.7 colored persons to 94.3 white. In Tennessee there were 24.4 colored to 75.6 white, and three counties had more colored than white. In Arkansas there were 27.4 colored to 72.6 white, and in the fourteen counties possessing a majority of colored out of seventy-eight counties of the State there were 72,104 white to 154,618 colored.

Texas, thanks in part to a systematic and determined effort in some portions of the State to keep out all colored people, had only 21.9 colored to 78.1 white, and in only fifteen counties out of two hundred and forty do the colored predominate, with 126,368 to 82,310 whites. In twenty-nine counties, with 8,848 whites, no colored are reported in the census. In eleven others, with 5,291 whites, there is only one colored person to a county. In one of these, as a resident informs me, there are numerous signboards with the inscription, "Mr. Darkey, don't let sundown find you in this county!" In twenty-seven other

counties of Texas there are 66,487 whites and only 2,462 colored. In no one of these counties are there more than ten colored, while there are thirty-nine other counties in no one of which are there one hundred colored, but only an average of thirty-eight, while there are 149,702 whites, or an average of 1,465. Finally, in the forty-four remaining counties of Texas there are 572,684 whites to only 44,061 colored, a ratio of thirteen to one.

In North Carolina there are 62.2 whites to 34.8 colored, and fifteen of the ninety-six counties have a majority of colored, the figures being 116,599 white to 170,113 colored.

The western half of North Carolina, the eastern half of Kentucky, the eastern third of Tennessee, three-fourths of Texas, and nearly all of Missouri are undisturbed by the race question. As a result local government is advancing steadily in Missouri, Kentucky, and Texas, and seems to be kept back in North Carolina, and possibly Tennessee, by the different race conditions in the larger part of those States. The situation has been more difficult in the other Southern States.

In Florida there are only 57.5 whites to every 42.5 colored, and ten of the forty-five counties, embracing 43.8 per cent. of the entire population of the State, have 62,310 whites to 104,654 colored. In Alabama, where there are 55.1 whites to 44.1 colored, there are twenty counties of the sixty-six in the State which have 157,655 whites to 406,087 colored; and in Georgia, with 46.7 per cent. colored, there are thirty-five of the eighty-four counties that have 199,006 white to 235,339 colored. In making these latter computations, beginning with Florida, no county in any State is included where a majority is not colored.

In Louisiana 50.1 per cent. were colored. In thirty-three of the fifty-nine parishes, corresponding to the counties of other States, there were in 1890 only 174,349 whites to 376,668 colored; while in Mississippi, with 57.6 per cent. colored, forty of the seventy-five counties had 258,096 whites to 606,310 colored. These forty counties embrace sixty-seven per cent., or two-thirds of the population of the State.

In South Carolina 60.7 per cent. were colored. In twenty-seven of the thirty-five counties the colored exceeded the whites, and in each of thirteen counties the colored were more than twice as numerous as the whites.

Democratic institutions cannot be based upon an ignorant suffrage, as the fifteenth amendment vainly attempted. An unwritten chapter of American history will some time reveal the effort of the late President Hayes and a majority of the dominant party in Congress, shortly after the war, to prevent the passage of the fifteenth amendment. Instead, there was desired a limitation of the suffrage among the blacks to those who could pass some educational test. Such a result of the war had been anticipated without ill-feeling by General Wade Hampton in his parting addresses to his soldiers, and would have been satisfactory to most of his fellow-officers of the Confederacy. Mr. Hayes, then just elected from Ohio to the lower house, secured the adoption of his views by nearly all the caucuses of the Republican Congressmen held by States. Then, if his account to the writer, in August, 1892, of his struggle was not wholly mistaken, he was forced to witness a complete overpowering of his wishes and those of the majority by the impetuous eloquence and bitter partisanship of the older party leaders in the general congressional caucus that followed. Nowhere, as he put it, is a newly-elected member so unable, even when he is in a small majority, to successfully oppose older leadership, as in Congress. It seems that all the facts on this grave matter do not appear in Blaine's *Twenty Years in Congress*. Out of the defeat of that liberal policy of Mr. Hayes have come sad results in all phases of Southern life; but with the gradual education of the Southern youth in the rapidly rising schools, and the recent tendency to restrict the suffrage by direct or indirect educational tests, a growth of local government becomes more and more attractive to the Southern educators and leaders of public opinion. The result will be somewhat evident in the following pages, but much more so as time goes on.

Some who have written short chapters in this monograph have not been able to investigate as fully as others; though it



has not been the object to write in such detail upon any State as was done in the earlier volumes of the *Studies*, when it was deemed wise to devote an entire monograph to a single State. Only salient features have here been touched upon. The papers are printed almost verbatim as written by their authors, except as omission of details has been found necessary. Unfortunately the students who were to take Mississippi and Louisiana were forced to abandon the work when too late for substitutes to be found, while no one was secured for Florida; but the editor has written one or two brief paragraphs on each of these three States, merely to prevent their entire omission and to give a few such characteristics as appear in their latest legislation. South Carolina and Virginia have been already treated in the *Studies* (South Carolina in Vol. I., No. 12, 1883, and Virginia in Vol. III., Nos. 2-3). But the interesting growth of local government in South Carolina since the appearance of Volume I. of the above *Studies* in 1883 has been briefly described.

North Carolina, Tennessee, Louisiana, Alabama, Georgia, and Mississippi are first treated and in the above order, which roughly represents the present development of the power of local taxation, North Carolina having the least. None as yet possesses the power of local taxation save in incorporated towns, cities and special school districts. Then follow South Carolina, Florida, Texas, Arkansas, Kentucky, and Missouri, in all of which all the school districts, and in the last two all of the townships, have powers of local taxation whose exercise is steadily increasing.

This series of papers is published in the hope that the accounts here given of the development in so many Southern States, since 1880, of such local institutions as have long prevailed in the North and West, will serve to further knit together all sections of our common country, and will stimulate the friends of local government in the South to persevere in a work already so well begun and so well calculated to secure better schools and better political institutions of every kind.

EDWARD W. BEMIS.

## I.

### LOCAL GOVERNMENT IN NORTH CAROLINA.

The old buccaneers are said to have buried, on the long, low sandy beaches of Carolina's coast, rich booty from many a gallant ship. On stormy nights, when the winds howl and the waves roll high, the dim outline of the treasure-hunter may be seen against the darkling clouds, as he searches for the hidden gold. But the sea and the moon are loyal to the buccaneers, and the treasure-hunter toils in vain. But while Carolina refuses to give up her mythical treasures of Spanish gold, there are hidden treasures within her bounds that are only awaiting the search-light of history to reveal their beauty and their worth. To the student of history she opens an inviting field.

Perhaps no one trait of the early settlers of America was more prominent than their adaptability to their surroundings. In New England, the first inhabitants settled in tiny communities around their favorite ministers, and were closely bound together by the ties of church and by the necessity of presenting a united front to their enemies, the Indians. Quite naturally the town became the unit of government, and the town-meeting became the center around which was developed that spirit of independence and love of self-government which has ever characterized the New Englanders. In the South, however, especially in Virginia and the Carolinas, the early inhabitants came not so much for religious reasons as on account of a roving disposition and a desire of adventure and fortune. Instead of settling close together, they built their homes upon large plantations, oftentimes many miles apart, and connected only by the intricate channels of the streams that intersect this portion of the coast. These large estates, tilled by indentured white persons and by negro slaves, resembled in a

measure the manorial estates in England after the Norman Conquest, and we shall find that in the development of local self-government these lords followed very largely in the footsteps of their generation in England, and did not go back to the town-meeting of their older ancestry, as did the inhabitants of New England. These large estates were not conducive to the development of mutual dependence. The master of each estate, surrounded by his broad acres, his tenants and his slaves, took scant time to think of, much less discuss, the petty subjects that were interesting the town-meetings of the North. As for himself, his opinions were convictions, and he gave little thought to the political education of the poorer classes of whites. Says Thomas Nelson Page: "He believed in a democracy, but understood that the absence of a titled aristocracy had to be supplied by a class more virtuous than he believed them to be. This class was, of course, that to which he belonged." Such a system was peculiarly adapted to the development of leaders, and the history of the Revolution and the first half-century of our country will show "such a group of consummate leaders as the world has seldom seen equaled."

In the charter granted by Charles II. to Edward, Earl of Clarendon, and others, as true and absolute Lords Proprietors of Carolina, provision was made for the division of the territory into counties, and for enacting laws and constitutions for the people of that province by and with the consent of the freemen or their delegates. While this charter contained the germ of representative government, it also contained an egg that was soon to hatch out a brood of constitutional farces such as the world had never before seen. Under that provision of the charter which granted the Lords Proprietors the right of making "laws and constitutions," the Earl of Shaftesbury, the learned but visionary statesman, and John Locke, the profound philosopher, drew up that stupendous travesty on constitutional government, "The Fundamental Constitutions of Carolina." On Carolina's soil was the only continued attempt made to connect political power with hereditary

wealth and to introduce into the wilds of America the effete system of feudalism as it existed in the England of the seventeenth century. While many of its provisions might appeal to the traditions and sentiments of the past, many of them were not only distasteful but absolutely detrimental to every interest of free government, and could only have originated in the brain of a visionary statesman or of a philosopher who had failed to bring his philosophy home to men's business and bosoms. Neither of these men had grasped that fundamental principle of government that political institutions must be growths. They cannot spring, Minerva-like, full-armed from Jove's brain. Their development must be gradual and their growth steady.

Under "The Fundamental Constitutions" the government of the province was vested in the hands of the eight Lords Proprietors, which body became not only an hereditary corporation but also a close corporation. The whole province was divided into counties, each county to consist of eight signiories, eight baronies, and four precincts.<sup>1</sup> By this division of the province into counties the process of making a nation by uniting the shires was reversed. The county, however, resembled in some respects our modern circuit court district. The precinct was the real unit of division and corresponded more nearly to the county in England. In fact, by act of the General Assembly in 1738, the precincts were altered to counties.<sup>2</sup> Provision was made for a court in each precinct, presided over by a steward and four justices of the precinct. This court had jurisdiction over all criminal cases, except those punishable with death and those pertaining to the nobility, and over all civil cases whatsoever. From this precinct court appeal could be made to the county court, which consisted of one sheriff and four justices, one for each precinct. Besides these two courts, "in every signiory, barony, and manor, the respective lord shall have power, in his

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<sup>1</sup> Fundamental Constitutions, §3.

<sup>2</sup> Laws of N. C., 1738, c. 21, s. 1.

own name, to hold leet-court there.”<sup>1</sup> Here we have the transition from the old English township with its “reeve,” “beadle,” and “tithing-man,” to the “manor,” with its lord’s steward and bailiff; and as the manor had not entirely lost its self-government, so the “grand model” provided for a court-leet, an interesting though fragmentary survival of the town-meeting. In the county court and precinct court mentioned above we recognize the form of the old English county court or Court of Quarter Sessions, though the resemblance can be more readily traced later when the functions of both courts were united into one. And this “Court of Pleas and Quarter Sessions,” as it was afterwards called, remained in force until the Civil War, a mighty bulwark of the people’s liberties.

While a few of the provisions of the “grand model” might appeal to the traditions and sentiments of the past, the great majority of them were not only distasteful but absolutely detrimental to every interest of free government. “Two-fifths of the land was to be perpetually annexed, one-fifth to the proprietors, the other to the hereditary nobility, leaving the remaining three-fifths among the people.”<sup>2</sup> “There shall be just as many landgraves as there are counties, and twice as many caziques, and no more. These shall be the hereditary nobility of the province, and by right of their dignity be members of parliament.”<sup>3</sup> “In every signiory, barony, and manor, all the leet-men shall be under the jurisdiction of the respective lords of the said signiory, barony, or manor, without appeal from him. Nor shall any leet-man or leet-woman have liberty to go off from the land of their particular lord and live anywhere else, without license obtained from their said lord, under hand and seal.”<sup>4</sup> “All the children of leet-men shall be leet-men, and so to all generations.”<sup>5</sup> In consequence of provisions like these we are not surprised to learn that this “grand model” was never put into practical operation and that it finally died a natural death. Thus the first

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<sup>1</sup> Fundamental Constitutions, §16.

<sup>2</sup> *Ibid.*, §4.

<sup>3</sup> *Ibid.*, §9.

<sup>4</sup> *Ibid.*, §22.

<sup>5</sup> *Ibid.*, §23.



attempt to force ready-made institutions upon Carolina soil failed, presaging the fate of a similar attempt in her later history.

As we have intimated above, the first constitution contained the germ of representative government, but, unfortunately, what the course of proprietary legislation for the first fifty years after the settlement of the colony was, there are no accessible means of ascertaining.<sup>1</sup> Consequently we can judge of this period only by the development the institutions had attained in 1715, the date from which the records have been preserved; resting assured, however, that those sturdy planters along the Chowan were not slow to realize the powers and possibilities that lay in the court of Pleas and Quarter Sessions. It became the unit of local government in North Carolina and the center around which moved all that pertained directly to the people in the administration of government. Besides its administrative and civil duties it performed the following functions, which, in Massachusetts, would have been attended to by the people assembled in the annual town-meeting, or by their officers elected in town-meetings. It provided standard weights and measures, appointed constables,<sup>2</sup> and levied taxes for all county purposes. It had the power of purchasing land and erecting houses thereon for county purposes. It established and discontinued ferries, roads, and bridges, and had complete supervision over them, regulating tolls of ferries, appointing overseers of the roads, and erecting bridges at the expense of the county. While in some respects this county court government may not compare favorably with the township government of the North, still we must not judge it too harshly. While the people of North Carolina did not have the privilege of meeting together annually and, in town-meeting assembled, of leg-

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<sup>1</sup> *Laws of N. C.*, 1821, vol. I., preface v.

<sup>2</sup> After 1833 the constables were elected in each Captain's district, a military division of the county that must contain a population of thirty-six men liable to perform military duty. *Laws of N. C.*, 1831, c. VIII.

isolating upon all the minor points of interest in their several districts, still they had their familiar court days, on which it was a rare occasion when every community in the county was not represented. Here, under the kindly shade of the courtyard trees, the yeomanry and the landed proprietors met on common ground and discussed politics, the price of cotton or perchance of turpentine, and various other questions of perennial interest. This was the forum of the farmers, the thought exchange of the people; and he would have been a poor justice of the peace who could not have found out the prevailing sentiments of his fellow-citizens on local affairs, and a worse one, knowing that sentiment, had he failed to act accordingly. Again, the county court flourished before the days of the cheap politician. Then a public office was a public trust, and then politics itself was reckoned a noble profession. The honor and integrity of the well-to-do farmers who, in most cases, constituted the county court, were unimpeached and unimpeachable. The system not only developed a self-respect in the members of the court, but, what was of more importance, it fostered and nurtured a spirit of confidence in the administration of the government among all classes of the people.

The silent shifting of authority from King to Congress made but slight change in this institution. The disturbance occasioned by the transition was hardly perceptible. By the constitution of 1776 the Governor was vested with authority to appoint the justices of the peace for the several counties, on recommendation of the Representatives in the General Assembly.<sup>1</sup> Some new duties devolved upon them, and their powers were somewhat increased from time to time. After 1777 the county court was empowered to elect annually a trustee for the county, whose duty it should be to collect all moneys due the county. However, a majority of the justices of the peace in any county might abolish the office of trustee, in which case the sheriff should perform all duties of

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<sup>1</sup> Constitution N. C., 1776, XXXIII.

that officer. In 1846 the justices of the peace were authorized to elect wardens of the poor, who, heretofore, had been elected by the freeholders. Another duty that devolved upon the county court was the appointing of a patrol committee of three, whenever such precaution was deemed necessary, in each Captain's district in the county.<sup>1</sup>

But what of public schools? Unfortunately they play a nominal part in local affairs prior to the years immediately preceding the Civil War. Although the constitution of 1777 had resolved that schools should be established by the Legislature, "for the convenient instruction of youth," very little progress was made for many years. It was not until 1844 that the counties were divided into school districts. The voters of these several school districts elected annually a school committee of three, who had power to purchase land for school purposes, to build school-houses, and to administer the meager appropriations received from the State "Literary Fund." This fund was distributed annually among the several counties of the State, and was supplemented by a tax levied by the court of Pleas and Quarter Sessions, which was not to be less than one-half of the estimated amount to be received by the county from the "Literary Fund." However, "no county court shall tax any free person of color for the support and maintenance of common schools, and no person descended from negro ancestors to the fourth generation inclusive shall be taught in said schools."<sup>2</sup>

Such in brief is a sketch of local government in North Carolina prior to the Civil War. Up to this time the growth and development of county government had progressed smoothly and quietly. But the shock of civil strife left the internal organs of government in a fearfully deranged condi-

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<sup>1</sup> Among other duties, the patrol was to visit the negro houses in their respective districts, as often as was deemed necessary, and to "inflict a punishment, not exceeding fifteen lashes, on all slaves they may find off their owner's plantations, without a proper permit or pass." Revised Code N. C., 1855, c. 83, s. 3.

<sup>2</sup> Revised Code, 1855, c. 66, s. 33.

tion. With the proud prestige of statehood gone, with her hopes blighted and her prospects blackened, torn, mangled and bleeding, she lay an easy prey to the political vultures that swarmed upon her. Under the Reconstruction acts of Congress, a constitutional convention was called, and a constitution was framed and adopted in 1868. Again was the experiment tried of forcing a ready-made form of government on the people, and again was illustrated the principle that institutions must be growths. In this constitution, provision was made for the introduction of a system of local government resembling that which exists in Pennsylvania. Each county should elect biennially five commissioners. These commissioners had general supervision and control of the penal and charitable institutions, schools, roads, bridges, and levying of taxes, and were empowered to divide their respective counties into districts. In each of these townships there were, biennially, to be elected a clerk and two justices of the peace, who, under the supervision of the county commissioners, were to have control of the taxes, roads and bridges of the township. Furthermore, the township was empowered to elect a township school committee of three persons. Theoretically these changes were along the right lines. It divided the counties into townships and gave them a species of local government much superior in theory, at least, to anything they had before. It gave the masses of voters privileges which hitherto they had not enjoyed. Again, it was no new, untried scheme of government; it had been in successful operation in many of the Northern and Western States. Yet we shall not have to go far to find the reason that made it repugnant to a majority of that class of people who had ruled the State for a hundred years. Besides bearing the odium of being fathered by the hated carpet-bag government, it struck, as they thought, at the foundation of free government, when it placed the property-owners of the whole eastern section of the State at the mercy of the recently enfranchised slaves, by turning over to them the whole machinery of county government.

In 1875 the State government passed into the hands of the opposite political party, and the so-called "negro rule of the Reconstruction era" was over. Immediately a constitutional convention was called and a constitution was framed whose points of difference from the one it superseded were few but far-reaching. This constitution left the thirteen sections of Article VII., which pertained to municipal corporations, including county and township governments, intact, but added a fourteenth which gave the General Assembly "full power by statute to modify, change or abrogate any and all of the provisions of this section, and substitute others in their place, except sections seven, nine, and thirteen" (these sections limiting taxing and debt-making powers of municipal corporations).<sup>1</sup>

This section virtually threw the whole question of local government into the hands of the General Assembly elected soon after the ratification of the constitution. This legislature promptly availed itself of this section to do away with the existing local government by repealing all sections of Article VII. (save seven, nine, and thirteen). While the township itself was not destroyed, all its functions were taken from it. The right of electing the five commissioners and the school committee was taken away from the people. Under the new system the legislature appoints five justices of the peace in each township (but if there is an incorporated town in a township it has six justices, and one additional for every 1000 inhabitants) who hold office for six years. On the first Monday in June of every other year, they meet at the court-house and elect not more than five nor less than three commissioners. The board of county commissioners holds regular meetings on the first Monday in December and June. Upon their shoulders rest the internal affairs of the county; they look after the paupers of the county; they have supervision of jails, court-houses and other property of the county; they hear and determine all petitions for open-

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<sup>1</sup> Constitution of 1876, Art. VII., s. 14.



ing or changing public roads; they build all bridges, provided said bridges do not cost over \$500 each;<sup>1</sup> they establish polling places and appoint judges of election for each precinct; they make out the jury list, and they have complete supervision of the taxing machinery of the county. Annually the board of commissioners meets in session with the justices of the peace, and they perform such duties as devolve upon them jointly, *e. g.* they levy the necessary taxes for the county purposes; they purchase sites for and erect all county buildings that require an appropriation of over \$500, and they elect, every other year, the county board of education.

Thus the people of the State, acting through a majority of their representatives, voluntarily surrendered their rights of local self-government and inaugurated a plan that approaches dangerously near an oligarchical form of government. This overthrow of local self-government was acquiesced in by a majority of the dominant political party, to save the people of the eastern section of the State from negro domination. As the question is now an open one in politics, it does not come within the scope of this paper to say whether the sacrifice has been worth the ends aimed at or not.

In the public school system, inaugurated in 1868 and modified in 1876, we find the most pernicious effects of this centralization of power in the hands of the dominant political party and the emasculation of local self-government. In the management of the public schools of the Northern and Northwestern States the people have taken a lively interest. Each county or township manages its own affairs, and has the right of increasing the regular appropriation for school purposes by local taxation, a most effective bond in uniting the people to the schools. Unfortunately both of these features are lacking in the system in operation in North Carolina. In the revolt against the form of government instituted in 1868, the men who formed the Constitutional Convention of 1876 allowed

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<sup>1</sup> The county commissioners cannot appropriate over \$500 for any purpose without the concurrence of a majority of the justices of the peace of the county.

the pendulum of local government to swing too far in the other direction. The school affairs of each county are in the hands of a county superintendent and a board of education. The board of education is elected by the board of county commissioners and the justices of the peace in joint session, and this board of education, in joint session with the board of county commissioners and justices of the peace, elects the county superintendent. This is the system, the wheel within a wheel, by which the dominant political party keeps control of the management of the public schools in every county in the State. Every vestige of local self-government has been removed. The school districts do not even have the privilege of electing their committees; they are appointed for them by the county board of education.<sup>1</sup> But as the public schools have suffered most from this system of centralization, it is more than probable that they will be the means by which the system will be entirely done away with or at least greatly modified. In 1889 an effort was made to amend the code so as to allow the voters of any township to vote a local tax upon themselves for the purpose of increasing their school fund; but unfortunately the law was so hampered and restricted that it has proved of no advantage to the rural districts. The State superintendent is still pressing upon the General Assembly the necessity of allowing any county or township to vote upon the question of taxing its citizens for school purposes.<sup>2</sup> These are straws which indicate the drift of opinion among the thinking classes. A change must come sooner or later. If it does not come in a political revolution—and we must remember that a single hostile legisla-

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<sup>1</sup> Other duties of the board are to lay off their respective counties into two sets of school districts, the one for the white children and the other for the colored children. As the convenience of the two classes of residents must be consulted in laying off these districts, the two sets may or may not coincide. They apportion the county school fund among the districts, without discrimination in favor of or to the advantage of either race.

<sup>2</sup> Report for 1889 and 1890, pp. xii and xlix.

ture can do away with the whole present mode of local government—it will come when the people shall have acquired the right of increasing their school funds by local taxation. When once the barrier is broken citizens will not be slow to demand the other rights and privileges which they voluntarily surrendered in 1876.

W. A. WEBB.

#### NOTE ON NORTH CAROLINA.<sup>1</sup>

The Superintendent of Public Instruction of North Carolina, in his report for 1892, states that only fifteen cities in the State levy any special tax for schools. These cities embrace only 75,598 souls, or 4.6 per cent. of the population of the State. One reason given is that no vote can be had in any town relative to a special school tax without a petition of one-third of the freeholders; and the tax, if voted, allows only ten cents on one hundred dollars of property and thirty cents on polls. Even this must be approved by special act of the legislature.

The Superintendent strongly urges that the right to vote three times as much local tax as this be had in any township, city, town, or school district, on petition of any respectable number of freeholders. This entering wedge of local government is thus urged in the Superintendent's report:

"I know of no subject of taxation to which the people can be more safely trusted. If they vote taxes for schools, that fact means better schools, and consequently more safety to property and person as well as to our republican form of government. If communities have an opportunity to vote taxes for schools, and fail to do it, and so have poor schools as compared with other communities that have voted taxes, they will readily see the reason. Under such a provision, the different communities and neighborhoods would stimulate each other to better efforts, and much good would result."

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<sup>1</sup> By the Editor.

## II.

### LOCAL GOVERNMENT IN TENNESSEE.

Tennessee was originally a part of North Carolina, and the laws and local institutions were changed very little when the people west of the Alleghanies set up a government for themselves. In fact, there has been very little change since then.<sup>1</sup> The county and not the township system prevails. Every county is divided into civil districts, in each of which, unless it contain an incorporated town or city, there are elected two justices of the peace and a constable, besides the three school commissioners mentioned below. The justices of the peace, in addition to the judicial functions usually attaching to their office, compose the county court. This court, which controls the affairs of the county, meets on the first Monday of each month. When so meeting it is called the Quorum Court, but is of little importance when compared with the Quarterly Court, which meets on the first Monday of January, April, July, and October. These four sessions of the county court are of the greatest importance and require the presence of the majority of the magistrates. The county court, at both its quarterly and monthly sessions, is presided over by the county judge, or, if there be no such officer elected in the county, the chairman of the county court. This officer is also the financial agent of the county.

The county court levies taxes, appropriates funds, controls public roads, looks after the poor of the county, builds bridges, jails, court-houses, and in other ways looks out for the welfare of the county. Within the limits fixed by statute the powers of this court are absolute.

At the January term the Quarterly Court hears the reports of the county judge or chairman of the county court, also of

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<sup>1</sup> In consideration of the above fact this chapter is made very brief.

the turnpike inspectors, jail inspectors, and the superintendent of public schools. The commissioners of the poor also make their report and submit estimates for support of the poor, which the court appropriates in full or in part. This court elects the jail and turnpike inspectors, the commissioners of the poor, coroners, county surveyors, notaries public, and superintendent of public instruction. Road commissioners for each civil district are also appointed.

Special questions frequently are brought before this court, such as the building of bridges, court-houses, or any other buildings for the use of the county.

The powers of this court are restricted by the statutes. There are certain questions pertaining to the welfare of the people locally, concerning which the county court has no power to act, except by submitting the question to the people. For example, if a railroad were to ask for a subsidy the application would first come to the county court, which body would submit the question to the popular vote. Such questions as this are the only ones that ever come before the people.

The civil districts into which every county is divided have no significance whatever so far as local government is concerned. They are convenient as voting districts. Each district has two magistrates and a constable.

The civil district is also the school district. Three commissioners are elected in each district who have charge of the schools in that district. They build school-houses and employ teachers. The length of the school term is determined by the amount of money on hand. The people have no voice whatever in the control of the schools, except the influence of public sentiment. It must be said to the credit of the school commissioners—and not of the system—that the wish of the majority of the people is in most cases followed by the commissioners. It can be seen, though, at a glance that the people are helpless. The taxes levied for school purposes and the State fund are paid to the county treasurer, who prorates it to the several districts according to the scholastic population.



The superintendent of public instruction is elected biennially by the county court, and the State superintendent of public instruction is appointed by the Governor. The school commissioners manage the schools of the district.

Where the people of a civil district so desire, they may contribute money to the school fund so as to continue the school throughout the year. This is frequently done. And in this we have some approach to local government, but no local tax can be voted.

The county court controls the roads. A road commissioner is appointed by the court for each civil district in the county. This commissioner appoints the road overseers, and assigns those citizens subject to road duty to the several overseers.

In many Southern States there were introduced changes in the forms of local government just after the war,—in the days of the “carpet-bag rule.” Such was not the case in Tennessee. The people, having never known anything else, believe in the existing system. As a rule the men in office have performed faithfully the duties imposed on them and for the best interests of the people whom they have represented. And thus they have made in a measure successful a system which under other circumstances might have been very burdensome.

F. P. TURNER.

#### NOTE ON TENNESSEE.<sup>1</sup>

When another constitutional convention assembles in Tennessee (and the sentiment in favor of it is rapidly growing), it is very likely that the power of local taxation will be largely extended. The following quotation, especially the closing sentence, taken from the report for 1891 of the State Superintendent of Public Instruction, Hon. W. R. Garrett, will prove interesting:

“Each county exercises county supervision through its superintendent, and is empowered through its county court

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<sup>1</sup> By the Editor.

to supplement the revenues by a levy on polls, property and privileges, not to exceed the entire State tax for all purposes.

"Each district exercises supervision and control through its directors, who are invested with large discretionary powers in the use of the school fund and in the management of the schools. In the law as originally enacted, the district was empowered to levy an additional tax either to increase the length of the school term or to extend the course of study. This portion of the law was pronounced unconstitutional by the courts and was subsequently repealed. The constitution of the State does not permit a subordinate civil district to levy a tax. This power is limited to the General Assembly, the county court, and the authorities of the municipal corporation. Thus one important link in the general plan of the school system was broken, and the power of providing for the introduction of the higher branches was lost to the districts.

"In 1885 the General Assembly, at its extra session, repaired this broken link as far as the constitution would permit, and took the only step in its power to provide for local taxation. A law was passed empowering municipal corporations to levy additional taxes and to establish 'graded high schools.' This enactment was eminently wise and has led to important results. Graded high schools are now in efficient operation in all of the cities and in many of the towns... The successful operation of the corporation schools has produced the effect to make the country districts feel still more keenly the lack of the power of local taxation."

The county taxes for schools 1890-91 were \$1,375,563.01, the city taxes in the fourteen cities reporting were \$279,649.51, and the receipts from all other sources, chiefly from State taxes, amounted to \$329,582.92.

NOTE ON LOUISIANA.<sup>1</sup>

The material is not at hand for an account of the local government of Louisiana, but the great and perhaps necessary centralization of power in the State government there is illustrated in the school system. The parish boards of education, which correspond to the county boards of other States, are chosen by the board of education, and the latter, consisting of one member from each congressional district, is appointed by the Governor. The parish police jurors, corresponding to county commissioners elsewhere, may levy a parish tax, and incorporated towns have the powers, usual in this country, of town taxation.

The Legislature in 1891 gave expression to the growing demand for self-government in Louisiana by submitting to the vote of the people a constitutional amendment giving to every school district as well as to every parish the power to levy a school tax on vote of a majority of the taxpayers. Unfortunately, however, the proposed amendment was so worded, apparently by mistake, as to limit the amount that the parishes might raise even more than it increased the opportunities for a more local tax, and so was voted down by the friends of the schools. A more carefully worded amendment may, in good time, be submitted to the people. The State Superintendent, in his report for 1890-91, strongly urges local taxation for schools.

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<sup>1</sup> By the Editor.

### III.

#### LOCAL GOVERNMENT IN ALABAMA.

The State is divided into 68 counties, varying from four hundred to sixteen hundred square miles. The county is a body corporate, of which the county commissioners are trustees, and as such body corporate it can sue or be sued, buy, sell and own property and issue bonds. The county officers consist of a Judge of Probate, Clerk of the Circuit Court, Sheriff, Tax Collector, Tax Assessor, Treasurer, Coroner, County Superintendent of Education, and four Commissioners. All of these are elected by popular vote, except that in forty-five counties the County Superintendent of Education is appointed by the State Superintendent. In some counties the commissioners are elected from districts, in others from the county at large.

The Probate Judge is, *ex officio*, president of the Court of County Commissioners, but has no vote except in case of a tie, which is very frequent on account of the number of the commissioners (4). This court has complete control of the affairs of the county, and its powers are specified in the code. It has original jurisdiction over the change, discontinuance, or establishment of (public) roads, bridges, causeways and ferries within the county.<sup>1</sup> Bridges are kept up by a special tax, or by moneys appropriated from the general fund. Roads are kept up in the following manner: Apportioners are appointed who class the roads and divide them into sections, appoint overseers for each section, and assign to each a quota of hands. Every male over 18 and under 45 who is free from physical deformity is subject to not more than 10 days' duty on the public roads each year. In the municipal

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<sup>1</sup> Code, §825.

corporations a street tax is generally substituted for this service. When a new road is to be established, the court appoints surveyors to select the route, whereupon the land is condemned, assessed, and paid for by the county.

The county court has authority—

1. To control the property of the county.
2. To levy a general tax for general, and a special tax for special county purposes.
3. To examine, settle and allow all accounts and claims chargeable against the county.
4. To examine and audit the accounts of all officers having the care, management, collection or disbursement of county funds.
5. To provide for the support of the poor.
6. To punish for contempt.
7. To exercise such other powers as are given to it.

The State tax is the same all over the State, but the county tax varies in the different counties and in the same county from year to year, but the State and county tax together rarely exceed one per cent., and often fall below three-fifths of one per cent. Special taxes are not often levied, except to keep up bridges and pay interest on county bonds.

In almost every county a poor-house has been provided. It is generally in charge of some person who receives a certain amount per month per capita for supporting and taking care of the poor. The house is often inferior and not always well kept, but is generally situated in the country, where fuel costs nothing and pure air is plentiful.

This county court also has control of all stock-law questions. A large portion of the State is woodland, and it is often found preferable to inclose the land devoted to agriculture and let stock run at large on the rest. The stock-law provides that the landowners of any section shall decide by ballot, voting by acres, whether they want to be compelled to fence their arable land or not. If the majority of acres are cast for stock-law, which means no fences, then, at the discretion of the commissioners, it is declared that stock cannot run



at large in that region except during certain months. In some sections of the State the stock-law obtains entirely, in others not at all, and between these two extremes bitter contests often occur.

The county is subdivided by the commissioners' court into precincts or voting districts. These are merely divisions for political purposes and are not corporations at all. Each precinct is allowed to elect two justices of the peace and a constable, who is the executive officer. Beyond this the precincts can do nothing. They can tax themselves for nothing. Only the county commissioners can impose a tax, and that equally over the whole county, and only for county purposes. Precincts are merely election districts, and the county commissioners may provide one or two voting places in each as they think the convenience of the electors requires. The constitution gives the Governor power to appoint one notary public in each beat, who shall be *ex officio* justice of the peace. This was done in order that every beat, especially where the negroes predominate, might have at least one white justice.

The classification of municipal corporations into city, town, and village is merely a distinction in name, there being no difference at all in the government of the three. Every municipal corporation within the State is governed either by a special charter or by the general charter provided in the code. Only the smaller municipal corporations are governed by the charter provided by the code, the larger ones and a great many of the smaller ones having obtained special charters. We shall not attempt to discuss the latter class, but will consider only the former. In the charter provided by the code, the executive officer is called the Intendant; in some of the special charters he is still called Intendant, in others, Mayor.

The incorporation of towns of more than one hundred inhabitants is provided for by the code. If a petition signed by more than twenty adults be filed with the judge of probate, asking for the incorporation of a certain place, he must at

once give notice and order an election to determine whether the majority wish the place incorporated or not. The vote is "Corporation" or "No Corporation." If "Corporation" wins, the place is incorporated under the general charter provided by the code. The executive of the corporation is the marshal, and the other officers are the intendant and five councilmen, who have power—

To pass such laws and regulations as may be necessary for their own government not contrary to law.

To prevent and remove nuisances.

To tax, license, regulate and restrain shows and amusements.

To restrain and prohibit disorderly houses, disorderly conduct, gaming, and breaches of the peace.

To establish watches and patrols.

To license, regulate and restrain the selling of spirituous, malt and vinous liquors within the corporate limits.

To establish and regulate markets.

To license and regulate drays.

To purchase, sell, and own real and personal property.

To exercise such other powers as may be given them by law.

The constitution provides that the State tax shall not exceed three-fourths of one per cent., and also prohibits counties from levying a tax greater than one-half of one per cent., except for some special reason, as the erection of a courthouse; and municipal corporations also have their tax rate limited to one-half of one per cent. (except Mobile, three-fourths of one per cent.) This applies to all municipal corporations, whether under the general or a special charter.

A license on bar-rooms not exceeding \$500 may be imposed by municipal corporations, and a small license on other businesses, which money is to be expended in keeping up the corporation, and may be spent for schools, if the council so prefer. We do not attempt to say how many city councils expend this tax for the support of schools; our personal knowledge extends to only one; there may be others. Of

course in those towns that have public schools supported by the town funds, these licenses are expended for schools indirectly, since they go into the general fund from which the school fund is appropriated.

The public school system of Alabama is under the control of the State Superintendent, assisted by a county superintendent in each county, township superintendents or trustees in each township, and the superintendents of the special school districts.

Every township and every incorporated town or city having 3000 inhabitants constitutes a separate school district, and each of them in all matters connected with public schools is under a township superintendent or trustees. Each township or other school district in its corporate capacity may hold real and personal property, and the business of corporations, in relation to public schools and school lands, is managed by the township or district superintendent.

Under this provision townships may hold property, but no special tax can be levied for the support of schools. In the Cullman (special) school districts as first organized an attempt was made to levy a special tax for the support of schools, but the Supreme Court declared it unconstitutional.

The money, then, for the support of schools (except in special school districts) must come from the State and from voluntary contributions, usually in the form of tuition. The general school fund is, in round numbers, \$650,000 per annum,—\$350,000 from special legislative appropriation, \$150,000 from interest on the sixteenth section fund and other sources, and \$150,000 from a poll tax. Every male between 21 and 45 pays a poll tax of \$1.50, which is applied to the support of schools in the district and for the race to which he belongs. The remaining \$500,000 is distributed over the State per capita, the distribution being based on a school census taken every two years by the district superintendents. In taking the census the superintendents count all the school children (between seven and twenty-one), whether they are enrolled on a school register or not, or whether the district has a school or not.

The State Superintendent is general overseer of all the schools in the State, and is required to visit each county once a year if practicable. He apportions the State funds and keeps accounts with those who disburse them. He is required to study the school systems of other States, and make such suggestions to the Governor or Legislature as he thinks best. He makes an annual report to the Governor. The county superintendent is elected in twenty-three counties and appointed by the State Superintendent in forty-five. He has general oversight of the public schools in the county. He disburses all the funds, except in special districts, and is responsible to the State Superintendent for all moneys sent to himself. His pay is \$75 and two per cent. of all moneys paid out.

The township superintendent is appointed by the county superintendent. Each township has a superintendent (except those counties which, by special act, have three trustees instead of a superintendent for each township, with identically the same powers and duties as a township superintendent), and he has immediate control of the public schools in his township. He receives no compensation, and his duties and powers as laid down in the code are as follows:

He may establish one or more schools in each township for each race, the co-education of the races being prohibited by the constitution. He is required to call annually a meeting of the parents and guardians in his township and consult with them as to the number and location of schools, "with a view to subserve their wishes, interests and convenience." In this way he is to determine the number and duration of schools, their location, and what per cent. of the public funds each is to receive. The township superintendent is not merely the executive officer of this meeting, but he has power to disregard its instructions altogether. Should the people dislike what he does, they have the right to appeal to the county superintendent. Such a meeting must be advertised for ten days by posted notices in at least three places, setting forth the business to be discussed at said meeting. If the parents

and guardians fail to attend such a meeting, as is generally the case, the township superintendent performs such duties as, in such cases, are required of him. In locating public schools, township superintendents "shall have due regard to such communities as will supplement the general district fund," and as will provide houses. There are, outside of the special school districts, very few schools supported entirely by public funds, and the township having no power to tax itself, the "supplement" must come from private sources. The public fund is about \$1.40 per capita per annum. This would not sustain the public schools more than a month if all of the children were to attend. But half of them rarely attend, and in a good many districts, especially where the negroes are numerous, summer schools, entirely public, are maintained at least three months. All the schools that amount to anything are private (except in special school districts). A community will employ a teacher and allow him to charge tuition, which varies from one to five dollars per month. The township superintendent will locate that school as one of the supplemented public schools, and set aside for it such amount of the public funds as is equal to the *pro rata* share of all the children who live near and are likely to attend that school. This money the teacher prorates among the children who attend school, and deducts each one's share from his tuition bill. It is generally the case that not more than one-half, frequently less than one-fourth, of the children of the community attend the school, and these funds reduce the tuition bills considerably. It is an undecided point whether a child who refuses to pay tuition can attend such a school. Many think that he can. The question often comes up, but has never been decided, so far as I know. In small towns and villages little attention is paid to the public funds. In most places one, frequently two, good schools are kept for nine or ten months a year, and the public funds are so small that little is said of them. It is only in the country districts (and this is most of the State, over 75 per cent. of the people living there) that these funds are of much



benefit. Then in the summer and winter, rarely spring and autumn, schools of three months' duration depend entirely upon public funds. The teachers receive from twenty to thirty-five dollars a month, and are generally young men or girls from eighteen to twenty-one who have nothing else to do during the summer or winter. In most rural districts the people are generally too poor to pay tuition, and this little schooling is all that their children receive. This is especially the case among the negroes. Many who are able to do so educate their children at the neighboring village school. This is expensive, as both board and tuition must be paid. It will be a long time yet before Alabama has a system of public schools that will meet all her wants. The chief drawback to the establishment of such a system is the presence of the negro and his legal equality with the whites. The nearest approach which we have to an adequate system is in the case of special school districts.

Eighteen special school districts have been created by special act of the legislature. Most of these are co-extensive with the corporate limits of the towns or cities which they embrace. Mobile county and the Cullman districts, embracing a large part of Cullman county, are the chief exceptions. Mobile county had a system of public schools at the time of the adoption of the present constitution, and in it this county is excepted from the control of the general school laws. While all these special districts are created by different acts of the legislature, they somewhat resemble each other. Each receives its share of the general school fund, and is given power to set aside a fund from the general revenue of the town, which is identical with the special school district, for the support of schools. In each district, separate schools for each race must be maintained. In some, a board of school commissioners is created; in others, the city council is made such a board. Schools, when co-extensive with the city, are generally supported by moneys from the general fund, which is made up of taxes, licenses, and fines; in other districts, by special tax. The entire tax for all purposes in no city can

exceed one-half of one per cent., except in Mobile and Birmingham; in Mobile by permission of the constitution, in Birmingham by amendment to the constitution. The city public schools are very good and give general satisfaction. It is by the creation of special school districts that an improvement in the school system is most likely to come, and it will come first in districts having few negroes.

W. F. NIX.

#### NOTE ON ALABAMA.<sup>1</sup>

In "History of Education in Alabama" it is estimated that the patrons of the public schools supplement the public funds by about one-third in order to secure better schools. This valuable monograph also shows that the constitution has greatly interfered, even in special school districts, with the growing efforts to supplement State school funds by local taxes. Probably this will be changed when Alabama holds another constitutional convention.

Ten special school districts made returns to the State Superintendent of Public Education for 1891-2. The returns for Mobile were incomplete. The other nine districts, with a total school enrolment of 3,718, and an average attendance of 2,576, appropriated \$43,811.87 from local revenues to supplement State aid, tuition fees and other receipts of \$11,553.40. Local government and taxation are less developed in Alabama than in most of the Southern States.

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<sup>1</sup> By the Editor.

<sup>2</sup> Published by U. S. Bureau of Education, 1889.

#### IV.

### THE LOCAL INSTITUTIONS OF GEORGIA.

The peculiar considerations which led to the establishment of Georgia, the unprecedented charter under which it was founded, and the character of the people invited to its borders, all give to it a unique place among the original thirteen colonies. While the troubles of the early settlers with the Indians, by which the colony was well-nigh depopulated, the changes wrought by the Revolutionary and Civil wars, combined with the influence of her sister States, have done much to efface some deep marks of distinction, still we can trace with more or less certainty the influence of the early days upon her later history, literature and institutions. The threads of this influence are tangled, broken and sometimes lost, and yet a glance at Georgia's colonial government may not prove unprofitable in a study of her present local institutions.

The history of Georgia as a ward of the Trustees covers the twenty years between 1732 and 1752. Three motives led to the foundation of the colony:

1. To afford an asylum for the indigent of Europe.
2. To aid in the conversion of the Indians.
3. To serve as a bulwark to South Carolina against the threatened invasion of the Spaniards from Florida.

It was the first and second considerations which were most prominent in the minds of the Trustees. They allowed themselves no salary, and carefully arranged the charter so that neither they nor their heirs could derive any benefit from the scheme. The historian Dr. Stevens says: "It was the first colony ever founded by charity. New England had been settled by Puritans who fled thither for conscience sake, New York by a company of merchants and adventurers in search of gain, Maryland by Papists retiring from Protestant intol-

erance, Virginia by ambitious cavaliers, Carolina by the scheming and visionary Shaftesbury, but Georgia was planted by the hand of benevolence and reared into being by the hands of disinterested charity."

The primary scheme of government was simple enough. The following officers were appointed from among the emigrants for the new town, Savannah: Three bailiffs, two tithingmen, a recorder, two constables, and eight conservators of the peace. A court of judicature known as the "Town Court" was erected, in which all things happening or arising in the province were to be tried according to the laws of England and those established in Georgia. This court was composed of the three bailiffs and the recorder acting as clerk. Only freeholders were allowed to serve on the jury. The Town Court of Savannah had no connection with a higher, but was itself supreme. While Oglethorpe was in Savannah, the power of the bailiffs was merged in him, but his residence was an intermittent one. The result which might have been expected to flow from the folly of conferring such civil and judicial powers upon the bailiffs was not slow to appear. Referring to this, one writer says: "Having never before held the staff of office, they became intoxicated with their elevation, and used their little brief authority like so many autocrats in miniature."

This plan of government proving unsatisfactory, a committee was appointed by the Trustees for remodeling the government and establishing a constitution to be administered by a president and several assistants. The province was accordingly divided into two counties, Savannah and Frederica. Over each was to be a president and four assistants, who were to constitute the civil and judicial tribunal of their respective departments. Oglethorpe was to exercise civil and military control over the entire colony, thus obviating the rivalries, jealousies and collisions which would have arisen between the two counties. Both counties united under one executive, the president and his assistants, to hold four courts each year in Savannah.

An annual representative Assembly, to be held in Savannah, was provided for. This Assembly was to meet in Savannah at the most convenient time of the year, the meeting not to continue over a month. Every town, village or district where ten families were settled in the province was to be allowed one deputy, and where there were thirty families, two deputies; Savannah was to have four. The power to make laws being entirely in the hands of the Trustees, the Assembly could only act as an advisory body. Besides other information demanded of the deputy, was the unique requirement that "he deliver in writing an account of the mulberry trees (properly fenced) standing on each plantation in his district." The failure of Georgia to make a silk-raising State was certainly not due to the lack of encouragement and even pressure on the part of both the Assembly and Trustees. After June, 1751, no person was to be chosen as deputy who had not one hundred mulberry trees planted and properly fenced on every fifty acres of land he possessed, and after June 24, 1753, no person who had not also at least one female in his family instructed in the art of reeling silk.

There are four clearly defined periods in the development of the local institutions of Georgia, which might be considered:

1. As a ward of the Trustees.
2. As a Royal Province.
3. As a slave State from 1777 to the emancipation of the negro.
4. From the adoption of the constitution of 1868 until the present time.

Resisting the temptation of glancing at the institutions of each period as we have at those of the first, we shall hasten to the local government of to-day.

The county is the unit of local government. Each county is divided into militia districts according to its territory and population. The largest counties have six representatives in the lower house, and the smallest counties, one.



The officers of the county are Ordinary, Treasurer, Sheriff, Tax Collector, Tax Receiver, Surveyor, and Clerk. These officers are elected by vote of the qualified voters of the county, and, with the exception of the ordinary, who is elected for four years, hold office for two years. According to the constitution of 1877 the county officers were made uniform throughout the State.

The chief officer is the Ordinary. His position is one of much power and responsibility. Courts of Ordinary have the right to exercise original, exclusive, and general jurisdiction of the following nature:

1. Probate of wills.
2. Granting and relieving letters testamentary and of administration.
3. Controversies of executorship and administration.
4. Sale and disposition of property of deceased persons.
5. The appointment and removal of guardians, and in all controversies as to the right of guardians.
6. All matters relating to deceased persons, idiots, and lunatics.

When sitting for county purposes the Ordinary has original and exclusive jurisdiction over the following:

1. In directing and controlling all the property of the county.
2. In levying a tax for county purposes.
3. In establishing, altering or abolishing all roads, bridges, or ferries.
4. In establishing and changing election and militia districts.
5. In supplying vacancies in county offices and in ordering elections to fill them.
6. In settling all claims against the county.
7. In auditing all accounts of officers having county moneys in charge.
8. In making such rules and regulations for the support of the county poor, and for county police as are in accordance with the laws of the county.

The above, though far from including all the powers of the Ordinary, will serve to give some idea of the extent of his authority. This concentration of power in the Ordinary forms the most distinctive and unique feature in the local government of the State. It is interesting to trace his title, so to speak, and see when so much authority was placed in his hands. The constitution of 1821 provided for the election in each county of five justices of the Inferior Court. In the code we find this provision, which is the first intimation of an Ordinary: "When the inferior court is sitting for ordinary purposes it shall be known only as sitting for ordinary purposes, and the clerk shall be known as clerk of the Ordinary."

The court established according to the constitution of 1851 is styled the Court of Ordinary and the incumbent as Ordinary.

According to the constitution of 1865 the powers of the Court of Ordinary and Probate were invested in the Ordinary elected every four years and commissioned by the Governor. He was empowered to issue citations, grant temporary letters of administration, and to grant marriage license. His powers were still, however, but a tithe of what they were to become.

According to the constitution of 1868 the Inferior Court was abolished and most of the powers of the five justices were given to the Ordinary. Almost every legislature conferred new powers upon the Ordinary. He became more and more the center of all authority in the county.

The Ordinary, we thus see, is an outgrowth of the old country justices, but a plant of very different kind. Several safeguards have been thrown around the officer. After his election the Ordinary must be qualified by the judge of the Superior Court, he must give a bond of not less than one thousand dollars, and all his acts are open to the scrutiny of the grand jury.

There is nothing about the other county offices that needs special mention.

The censors of the county are the grand jurors. All males above 21 and under 60, who are deemed upright and intelligent citizens, are qualified to act as grand jurors. It is the duty of the Ordinary, together with the clerk of the Superior Court and three commissioners appointed by the judge of the Superior Court, to meet at the court-house the first Monday in June biennially, to select jurors from the books of the tax collector and make out tickets with the names, thus selected, on them. These tickets are placed in a box with two separate departments numbered "one" and "two." This box is locked up and sealed by the judge, given over to the clerk, and the key is entrusted to the sheriff. The judge of the Superior Court, at the end of each term, causes to be drawn from number "one" in open court not less than eighteen nor more than thirty names to serve as grand jurors at the next term of court. All of these names are deposited in number "two." When all the names have been withdrawn from "one," the process is reversed. No name can be thrown out of the box unless the juror is dead, removed out of the county or otherwise disqualified by law. As the judge is appointed by the Governor, and the jury commissioners by the judge, it is possible for the jury to be confined to one political party, viz., the one represented by the Governor. The result has been to exclude the negro largely from jury service. The following are some of the duties of the men so carefully selected:

From term to term of the Superior Court they are to inspect and examine the offices, papers, books, and records of the Clerk of the Superior Court, Ordinary, and Treasurer. They are to examine the list of voters and to present any illegal voter for violation of the law. They are to inquire into and report on the financial condition of the county, to correct mistakes in Tax Receivers' returns, to present the Road Commissioners for neglect of duty, to select the County Board of Education, to inquire into the record of the prisoners, and to examine and approve the reports of the county officers.

There has been recently much legislation upon public roads. Whatever may be the perfection secured in the laws, the effect is not yet visible in the roads themselves.

According to an act of 1818, the Ordinary is required to lay his county off into road districts and apportion the roads and hands so that the burden of road duties shall fall equally upon all. He is also to appoint biennially three commissioners for each district. It is the duty of these commissioners to appoint overseers for road hands in their district, to properly apportion the various roads and hands, and to furnish each overseer with a list of the roads and hands under his charge. They are to hold a court after the road-working to hear all cases of default or other violation of the road laws. It is their duty to inspect the public roads, bridges, and ferries within their districts, and to exercise a general supervision over the overseers in their district and to fine them for neglect of duty. A person appointed road commissioner is required to serve, and if he neglects his business he may be reported by a member of the grand jury and fined not less than fifty dollars. The only compensation is exemption from jury, patrol, militia and other road duties.

When application is made for a new road or the alteration of an old one, the Ordinary appoints three commissioners to investigate the advisability of granting the request. If they recommend that it be granted, the Ordinary posts a notice of the application for 30 days, at the end of which time the road is granted, provided no objection is made. The code has provided since 1818 that the public roads must be laid out the nearest and best way, but there is no way of enforcing the law and it has always remained a dead letter.

All male inhabitants between the ages of sixteen and fifty are subject to road duty; exemptions are made in the case of licensed ministers, teachers and pupils in schools and colleges, public mills, ferries, etc, white persons in charge of railroad trains, officers of the county, State or United States, members of the County Board of Education and others. Tools or horses may be substituted for the labor of persons. The

result of so many exemptions is that road duties are rarely performed by the wealthy or influential planters.

The public schools of the State are in the hands of a State Board of Education composed of the Governor, Attorney-General, Secretary of State, Comptroller-General, and State School Commissioner. The latter officer is appointed by the Governor.

Each county forms a school district, and is placed in charge of a County Board of Education. This county board is composed of five freeholders, appointed usually by the grand jury, but in some few counties secured by popular election.

This board elects one of its own members as County School Commissioner. The compensation allowed the other members of the board is exemption from road, jury, and militia duties, but the commissioner may be given in addition such salary as the board may vote him, provided he is never paid more than \$3.00 per day for time employed in the discharge of his official duties.

The County School Commissioner must examine all applicants for license to teach. He is to serve as the medium of communication between the State School Commissioner and his subordinates. He is expected to visit each school in his county twice during the year, an expectation which, it may be remarked, is seldom, if ever, realized. The code also provides that he shall every four years take a complete census of the youths of his county, noting the number of white and colored children. He is also required to report annually to the grand jury, and to place his books before them for examination.

Admission to the public schools of the State is gratuitous to all children between the ages of six and eighteen. White and colored children cannot attend the same school.

The code still contains the somewhat curious provision that the school revenue shall be apportioned to each county upon the basis of the aggregate of youths between six and eighteen *and all Confederate soldiers under thirty years old*. The school fund consists of the poll tax; tax on liquors, shows and exhibitions; dividends upon railroad stocks



owned by the State; all moneys received by the agricultural department for the inspection of fertilizers in excess of what is needed to defray the expenses of that department; the net amount arising from the hire of convicts, and such other funds as may be appropriated from time to time by the legislature.

It is provided that equal advantages shall be given so far as possible to both races, a provision which has been carefully observed, notwithstanding the fact that the whole management of educational matters has been almost entirely in the hands of the whites.

According to an act of 1890, teachers' institutes have been established in every county in the State. Every teacher is required to attend an institute for at least one week during the year.

An act of Sept. 16, 1891, provides that a local tax to supplement the State school tax may be levied in any county where a county school system is not already in existence. After two successive juries have recommended this supplementary tax, the Ordinary orders an election, which is to be held under the same rules as the usual elections of the county. If two-thirds of the voters qualified to vote at this election declare for local taxation, the Ordinary notifies the County Board of Education, who in turn fix the rate of taxation, which is not to exceed one-fourth of one per cent. of the taxable property of the county.

Any county in which a county school system is already in existence, but where the funds, in the opinion of the County Board of Education, are insufficient, may obtain the benefits of this act by complying with the provisions. An incorporated town or city in the county having a school system of its own sustained by local taxation is not allowed to vote in this election, and the property in the town, of course, is not subject to the county school tax. In counties where there is a registration law, two-thirds of the voters on the last registration list must be secured, and in counties where there is no such law the same proportion of the citizens whose names

appear upon the books of the Tax Collector as having paid their tax must vote for the local tax to carry the law.

This provision that two-thirds of the qualified voters, instead of two-thirds of the qualified votes cast, should be necessary, the requiring the recommendation of two successive grand juries, most if not all of whom are freeholders, and finally giving the County Board of Education, all of whom are landowners, the right of fixing the rate, all show that local taxation for county schools is still in the hands of the property owners. This act of 1891 is, however, an important step forward in local government.

F. S. BROCKMAN.

#### NOTE ON GEORGIA.<sup>1</sup>

A steadily increasing number of cities and incorporated towns are possessed of the right of local taxation for school purposes. Thirteen cities, three counties and ten incorporated towns are thus reported by the State Superintendent in his report for 1890, while in another part of the same report he mentions the names of three other counties and eleven towns that have lately received from the legislature this privilege of local taxation for school purposes. During 1886-1890 inclusive this privilege was granted to twenty-two towns and three counties and has been acted upon by nearly all.

#### NOTE ON MISSISSIPPI.<sup>2</sup>

The county governing body is composed of a member called a supervisor, chosen for four years from each one of five districts. In thirty-two enumerated counties where in 1890 there were 512,276 blacks and only 207,323 whites, or 71 blacks to every 29 whites, each supervisor must possess real estate worth \$250. In the remaining forty-three counties which have 337,518 whites and 232,473 colored, or 59 whites to every 41 colored, the supervisor must possess \$100 worth

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<sup>1</sup> By the Editor.

<sup>2</sup> By the Editor.

of real estate. Each supervisor must also give bond equal to five per cent. of the previous year's taxes raised in the county for State and county purposes. The board of supervisors levies and disburses the county revenue and manages nearly all of the county affairs.

There are only two important kinds of government within the county,—the special school district, and the incorporated municipality. Of the latter type are 19 cities of from 2,000 to 13,500 inhabitants each, or a total of 85,490, and some of the 187 small cities and villages, of which the 116 making returns to the last census, and supposably the largest, had 63,741 inhabitants, or an average of 550. Villages of under 300 inhabitants can levy only a four-mill tax on the dollar. Those over 300 and under 5,000 can levy a six-mill tax for general expenses and as much more for general improvements. Places over 5,000 inhabitants can levy a twenty-mill tax for the two objects stated above, or for schools. There are four places in the State over 6,000 and with a total population of 40,756.

The other type of local government below the county is the special school district. In these districts, of which there were 43 in 1891, 35 having been organized since 1888, there was an average attendance of 14,963 pupils in 1891, or 7.6 per cent. of the attendance of the entire State.

Any place of over 750 inhabitants can become a special school district, in which case the mayor and aldermen select the trustees. These trustees control the school and must keep it open seven months a year, or three months more than is required in other parts of the State, but they cannot levy a tax exceeding three mills without the consent of a majority of the taxpayers of the municipality.

In the rest of the State the County Superintendent of Education, who is appointed in most counties by the State Board of Education, but elected in a few instances, fixes the salaries of teachers and appoints them, following any recommendations, if given, of the district trustees. The latter are elected annually by the school patrons, and must be able to read and

write. The county school board, consisting of one from each of the five supervisors' districts, is appointed by the county superintendent, subject to the approval of the board of supervisors. This Board of Education, among other duties, defines boundaries and locates school-houses.

#### NOTE ON SOUTH CAROLINA.<sup>1</sup>

As stated in the introduction, local government in South Carolina was treated in another monograph in these Historical Studies (Vol. I., No. 12), prepared in 1883 by Dr. B. J. Ramage. At that time, save in a few towns and cities, there was no important political subdivision of the county, and even the amount of tax for various purposes that the elective county commissioners could raise was fixed by the legislature. In school matters, the Governor appointed the State Board of Examiners. The latter appointed the county board of examiners, who in turn divided the county into school districts and appointed three trustees for each, but had no power of county taxation for schools. The nearest approach to the town-meeting or *referendum* was in the power of these trustees to "call meetings of the people of the district for consultation in regard to the school interests thereof."

On December 24, 1888, a great extension of local government in South Carolina was made by a law providing for local taxation for school purposes in any school district so desiring. The conditions are, first, that a majority of the resident freeholders must petition for it. Then the school trustees call a meeting of all who return \$100 worth of real or personal property for taxation. This meeting elects a chairman and secretary, and can levy a tax not exceeding two mills on the dollar and appropriate it "to such school purposes as a majority present shall see fit." The county treasurer collects the tax, which is expended in the district; but "each taxpayer, when he pays any tax for school purposes voted under the provisions of this act, shall have the right to

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<sup>1</sup> By the Editor.

designate to which school in his district he wishes the money paid by him to go," and the money must be so expended. If there is no such designation of the tax, the money is spent like the other funds of the district.

I suppose the school meeting merely appropriates the tax levy for a certain class of expenses, such as teachers' salaries, school buildings, apparatus, etc., and then the taxpayer can designate further the school. This power would probably be much appreciated by the whites in a county like Beaufort, where there were in 1890 only 2,695 whites to 31,424 colored, or Berkely, where there were 7,687 whites to 47,741 colored persons, who were presumably much smaller taxpayers.

This law is a strong entering wedge for local government. Many towns with limited powers of local government and some cities are yearly incorporated.

Twenty-one of the thirty-five counties of the State report to the State Superintendent of Education for 1891-2 that special, *i. e.* local, school taxes in their counties amounted to \$57,329.64, or 15.2 per cent. of the total receipts for school purposes. There have been created in the State since 1877, by special acts of the legislature, eighty-six special school districts, aside from the separate school districts provided for by the general law of 1888. Of these eighty-six, twenty-one have the right to levy a three-mill tax, four a four-mill tax, and five a five-mill tax. Nearly all the rest, like the separate districts, can levy a two-mill tax.

#### NOTE ON FLORIDA.<sup>1</sup>

The chief development of local government in Florida, as elsewhere, is connected with schools. By virtue of a law of June 8, 1889, it is provided that, on petition of one-fourth of the voters in any election district or town, a vote must be taken relative to the formation of a school district with three elective trustees therein. In any school district thus created the County Board of Education, when petitioned to do so,

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<sup>1</sup> By the Editor.



and when it deems the action advisable, has an election in the district to determine the propriety of a special local tax for school purposes. At this election a majority of all those paying real or personal taxes can vote a tax not exceeding three mills for school purposes. In districts where the trustees are not elected, those nominated by the patrons are usually appointed. The patrons of a school often hold an election for the choice of a teacher when not appointed by the trustees. The County Board of Education, consisting of three members, who locate and maintain the schools and levy a tax of three to five mills, are nominated by the State Superintendent of Education and confirmed by the State Board of Education, which is an elective body.

The five county commissioners, who administer most of the affairs of the county, are appointed by the Governor and Senate, but the people elect the County Superintendent of Education and the assessor. In the election districts assistant assessors may be appointed by the county commissioners if the legislature so orders.

Three hundred or more voters in a place are sufficient for incorporation as a city, and twenty-five male inhabitants likewise are sufficient for an incorporated town. Both have a mayor and council, who have the power to pass ordinances and to levy a tax not exceeding one per cent. for schools, streets, the poor, infirm, insane, and for many other purposes. The tax for interest, water works and fire protection may exceed one per cent. About 130,000, or one-third of the population of the State, according to the census of 1890, lived in cities and villages. There were three of these places with from 11,750 to 18,080 inhabitants, twenty-three from 1,000 to 5,600, and seventy-five from 54 to 1,000. The number of these small places enjoying local government—for a considerable proportion are incorporated—must be taken into account in considering the local government of the State.

## V.

### TEXAS.

In the latter part of the year 1684 La Salle established the first European colony within the present limits of Texas. This colony lived only a short time. In 1686 Mexico took nominal military possession of the country, and five years later Don Domingo Teran was appointed Governor of Coahuila and Texas, with instructions to establish agricultural colonies in the southern and most fertile sections of the territory. This assumption of sovereignty by Mexico did not cause France to relinquish her claim to Texas, nor did France recognize the Spanish treaty of 1803 with the United States as binding, but continued a spasmodic controversy until the treaty of Guadalupe Hidalgo, in 1848. The republic of Mexico prescribed military government for the new settlements as they were established, and this form of general and local government, which was in course of time widened and elaborated to suit the demands of the colonists, prevailed until 1821, when the Mexican nation was declared "free and independent of the Spanish government and every other forever."

Under the constitution of the United Mexican States, the provinces of Coahuila and Texas were made a State coordinate in internal administrative powers with the other constituent States of the confederation. The form of the State government was representative, popular and federal, and like the government of the United States was divided into three branches, namely, the legislative, executive, and the judicial. The government of the confederation was similar to that of the United States in that its powers were enumerated, giving to the States all powers and rights not expressly granted to the central government. The confederation was sovereign

as to all proper international relations, while the States were sovereign as to general police powers and local taxation. A State constitution for Coahuila and Texas was framed at Saltillo, and proclaimed March 11, 1827, and in this constitution it is declared that the "sovereignty of the State resides originally and essentially in the mass of individuals who compose it," the form and substance of such powers being defined and designated by the constitution of the State. At the formation of this constitution the State was divided into three departments, namely, Bexar, Monclova, and Parras, and power was given Congress to alter and readjust this division to suit the advantages of the different sections.

The State was divided into ayuntamientos, local subdivisions of State government, somewhat like our county at present, as to its functions of government. The ayuntamiento district was divided into electoral municipal assemblies, like our present election precinct, but more to suit the convenience of the scattered communities than in accordance with geographical surveys. These primary juntas, or municipal assemblies, were composed of all qualified voters residing within the specified limits. The elections were held on Sunday and the following Monday, the session lasting four hours each day. At these times electors were chosen to meet in conjunction with electors from other municipal assemblies and vote for members of Congress, the Governor, and other high officers of State. The ayuntamiento was a board of officers elected by means of electoral municipal assemblies to establish and direct police powers and regulations and general internal government for the towns and communities of the State. Congress could, upon proper application and sufficient demand shown, establish ayuntamientos, and in the enabling act would designate the number of officers, alcaldes or presidents, who had power to exercise both legislative and judicial functions somewhat like the mayor of some of our Southern cities. Syndics having powers similar to our modern city councillors, and aldermen similar to the modern Board of Public Works, were next in power to the alcaldes.

The *alcaldes* were to be renewed yearly, of the aldermen half were renewed every year, and also the *syndics*, if there were more than two, but if only one, he was changed every year. Each *ayuntamiento* would make out annually a full report of its financial and industrial conditions and forward to the Chief of Department, who would report to the Governor or Congress, and the *ayuntamiento* would publish a copy of the same in a public place. The *ayuntamiento* was the local unit of taxation as well as of civil government. The tax lists were made out by the *ayuntamiento*, and the assessments were collected by agents of its own appointment. Ten per cent. of the tax was applied to the current expenses of the *ayuntamiento*, to pay the tax commissioners and other local functionaries, and the remainder went to the State.

In 1836, we find the English and American colonists tired of Spanish and Catholic rule. By strong exertion they threw off Mexican allegiance, proclaimed their independence, and established a provisional government, which was superseded, in a few months, by a permanent republic. The constitution of the republic was, to a large extent, a copy of the United States plan of individual statehood. The church was cut loose from political government; religious qualifications were no longer necessary for eligibility to the franchise and office. The electoral system of voting was supplanted by the popular ballot. The Legislature was divided into two branches, a House of Representatives and a Senate, the members of both being elected by popular vote in districts determined by due apportionment of the full population. The executive was elected by popular vote. The State was imperfectly divided into counties, and in each county was established a county court and such justices' courts as Congress thought proper. In this change the strict form of Continental government and the civil law sink beneath the greater liberality of the United States government and the English common law. In 1845 the Republic of Texas ceased to be an independent sovereignty, by being admitted as a State into the United States of America. The old constitution and

laws of the republic needed only slight modifications to meet the requirements of the constitution and laws of the United States.

At present the county is the distinctive unit of local self-government. Some of the counties are still very large. The counties organized since 1879 contain not less than seven nor more than nine hundred square miles, and all counties that shall hereafter be formed out of unorganized territory of the State must conform to the same rule.

The county organization and form of self-government may be outlined as follows: The county is divided into four precincts, in each of which a commissioner is elected by popular vote every two years. These four commissioners, with the county judge, who is elected every two years by the popular vote of the county, constitute the county or commissioners' court. This court bears the same relation to the county as the Legislature does to the State, and for beneficial local institutions it is by far the wisest and most important body. The county judge presides at the meetings and votes only in cases of a tie. He fills a vacancy of a commissioner's office by appointment from the district left vacant. This court has power to fill any other county office left vacant. This court meets in regular session on the second Monday in February, May, August, and November of each year, and the county judge or any three commissioners may call a special session, which may continue until the business for which it was called is completed. A quorum—three commissioners and the county judge—may transact any business except to levy the county tax, when the full number must be present. To this court all petitions for the establishment of schools, roads, bridges, and other local public institutions must be addressed. The general supervision of all property belonging to the county, such as jails, court-houses, poor-houses and poor-farms, is vested in this body. For the erection and maintenance of any of these necessary county institutions, the commissioners' court may levy and collect a tax upon any property within the county that is taxed by the State. The county



tax cannot exceed one-half the State tax on any property, except for the purpose of erecting public buildings, and this right is continually subject to constitutional and legislative limitations. An instance of this exception is in building or completing a court-house, when a tax not exceeding fifty cents on the one hundred dollars' valuation may be levied. On the second Monday in June, the commissioners' court meets as a board of equalization, to receive all the assessment lists and books for inspection, equalization and approval. Here the local grievances of the individual citizen are examined and redressed according to popular justice and law. The commissioners' court of any organized county has the full power of local legislation over any adjacent unorganized territory.

The commissioners' court divides the county into eight precincts, and elects a justice of the peace for each. In cities of eight thousand or more inhabitants two justices of the peace are elected and qualified. This court also has power to elect a County Superintendent of Education when necessary. It is the duty of the superintendent to visit the public schools, lecture to them, advise the teachers, and hold teachers' institutes monthly.

The court may elect a County Superintendent of Roads, or a superintendent for each precinct, and also overseers under each superintendent. The court in every case defines the road districts and apportions the hands under the overseers. The court must make a report of the financial condition of the county at each and every regular session, and this report must be published in some local newspaper or posted in four public places in the county. The county clerk makes and keeps a record of all proceedings of the commissioners' court.

The sheriff executes all legal and legislative processes. He is collector of taxes in counties of less than ten thousand inhabitants. He may appoint deputies, but he is personally responsible for their official acts. In counties of less than eight thousand population, one officer may be elected to fill both offices of district and county clerk. A constable is

elected for each justice precinct. He must execute and return all processes handed him by any legal officer. Other county officers, whose duties are sufficiently defined by their titles, are assessor of taxes, collector of taxes (in counties of over ten thousand population), surveyor, animal and hide inspector, county attorney, county jury commissioners, and treasurer.

#### TOWNS.

A town or village containing two hundred inhabitants or less than one thousand may be incorporated as a town by at least twenty inhabitants of such town or village filing an application for incorporation in the office of the county judge, stating the name and the boundaries of the proposed town or village. If all the requisites of incorporation are fulfilled, the county judge orders an election, in which all qualified voters who reside and have resided within the limits of the proposed town or village for the six months next preceding may participate. A majority of the votes polled is sufficient for incorporation. Within twenty days after the election the county judge makes a record in the commissioners' court of the incorporation. After this entry upon the county records the town or village "is a corporation having power to sue and be sued, plead and be impleaded, and to hold and dispose of real and personal property; provided such real property is situated within the limits of the corporation." The county judge then orders an election of a mayor, a marshal, and five aldermen. The jurisdiction of the mayor in civil and criminal cases is the same as that of a justice of the peace. He is the executive of the town ordinances and by-laws. The council, composed of the mayor and the five aldermen, may make by-laws not inconsistent with the constitution and laws of the State; may levy a tax not exceeding one-fourth of one per cent. on the one hundred dollars valuation. The marshal has the same official functions as a constable and, of course, other duties made necessary from the town ordinances and by-laws. He also assesses and collects the taxes.

Cities of one thousand or more inhabitants may be chartered by general laws. Such charter gives express power to levy, assess and collect an annual tax to defray the current expenses of the city government; but such tax can never exceed for any one year one-fourth of one per cent. Cities may hold and dispose of real and personal property situated within or without the corporate limits. Cities of over ten thousand inhabitants may have their charters granted by special acts of the legislature, and may levy a tax on property taxed by the State within the city limits not exceeding two and one-half per cent. The cities having special charters must in all cases provide a tax sufficient to pay interest on all outstanding debts.

The municipal government of the city consists of a city council composed of the mayor and two aldermen from each ward, a majority of whom constitute a quorum for the transaction of business, except at called meetings for the imposition of taxes, when two-thirds of a full board are required, unless otherwise specified. The other officers of the corporation are a treasurer, assessor and collector, a secretary, a city attorney, a marshal, and a city engineer, and such other officers and agents as the city council may from time to time direct. The above-named officers are elected by the qualified electors of the city, and hold their offices for two years and until the election and qualification of their successors. It is so arranged that one alderman is to be elected from each ward every year. The city usually has its powers defined in its charter, and may generally exercise any needful internal police power within its limits, subject only to the limitations of the State constitution and laws.

#### SCHOOLS.

In 1829 provision was made for the establishment of a "school of mutual instruction" in the capital of each department of State. The curriculum comprised "reading, writing, arithmetic, the dogma of the Catholic religion, and all of Ackermann's catechisms of arts and sciences." Parents who

were able to pay were charged fourteen and eighteen dollars per annum, according to the advancement of the pupil. The teachers were paid monthly fixed salaries, in advance. If the tuition, legacies and private donations were not a sufficient available fund, the municipal funds were subject to the delinquency. Special but limited arrangements were made for educating some of the poor children at these schools. The parents who could afford to educate their children were required to do it, under moderate penalties.

The Congress of Texas, after it became a republic, appropriated seventeen thousand seven hundred and twelve acres of land to each county for public school purposes, and to each new county the same amount was to be appropriated. This law still obtains in Texas. The county commissioners may rent the lands, adding the rental to the available county school fund, or they may sell the lands and invest the proceeds in United States bonds, State or county bonds, or in other securities subject to restrictions provided by law, and the income from such investment is added to the available county school fund. It has recently been recommended by the Superintendent of Public Instruction that the proceeds from the county school lands be loaned to the county for the erection of school buildings, each district bonding its debt with reasonable interest.

The Perpetual School Fund consists of bonds, land, notes and cash, as follows:

County bonds: \$2,622,620; income, \$170,000.

State bonds: \$2,048,800; income, \$130,000.

Railroad bonds: \$1,763,317; income, \$80,000.

Land notes: \$12,743,000; income, \$775,000.

Cash on hand: \$500,000.

The total amount of permanent school fund in 1890 was \$19,600,000. The income from this fund is nominally about \$1,157,000, but as much of the interest on the land notes is unpaid, the actual receipts in 1890 were about \$885,000.

The State available school fund comprises this income from the permanent school fund and one-fourth the revenue from

the State occupation taxes, a poll tax of one dollar on every male inhabitant between twenty and sixty years of age, and an annual State tax not exceeding twenty cents on the one hundred dollars valuation. Then the county available school fund adds about half a million dollars, and local taxation adds another half million dollars.

The State available fund is apportioned annually to the several counties, according to the scholastic population of each, for the maintenance of public free schools. The laws purporting to govern the public free schools of Texas declare that the available funds will be "sufficient to maintain and support the public free schools of this State for a period of not less than six months in each year." The reports of 1889-90 show that in the "district school" counties the average term per annum was only five months, and in the "community" counties only 4.83 months. In the cities the average term was 7.62 months. On the first Monday in October of 1884 all but seventy-five of the two hundred and forty-five counties were divided into convenient school districts by the county courts, and these districts cannot be changed, except by a majority vote of the legal voters in all districts affected by such change. In each district three trustees are elected by the qualified State voters in such district, and these trustees form a body corporate, that is, they may contract, sue and be sued, plead and be impleaded in any court of the State having proper jurisdiction. Any district may, by a two-thirds majority of the qualified property tax-paying voters of the district, levy a tax not exceeding twenty cents on the one hundred dollars valuation of the taxable property of the district. Towns and cities constituting separate and distinct school districts are not limited to this amount, but are subject to such limitations as the respective municipal councils may prescribe.

There is a simpler and more rudimentary system of public free schools for the thinly settled counties and unorganized territory. This is called the "Community System." Any number of *bona fide* residents in any one of these counties may petition the county judge for their *pro rata* of the avail-



able annual school fund of the county. As the teacher's salary is based upon the number of pupils in the district or community, a small community is able to have a school for a few months in each year. If the attendance ever falls below thirty-three and one-third per cent. of the enrolment, the trustees must discontinue the school. The county judge appoints the three "community" trustees, and they have all the ordinary powers vested in the trustees of a regular school district, save that they do not constitute a body corporate, and, hence, have not the powers belonging to such a body. Districts, however, may be formed in any of the community counties by the citizens of any section of the county, but must not exceed four square miles in area.

The State Board of Education is composed of the Governor, who is chairman of the board, the Secretary of State, the Comptroller, and the Superintendent of Public Instruction, who is *ex officio* secretary of the board. This board makes the apportionments to the several counties and to the separate and distinct city and town school organizations.

#### COUNTY SCHOOL OFFICERS.

The County Commissioners' Court is the tribunal to which all petitions and grievances are referred that do not come within the jurisdiction of the board of trustees, such as petitions for a local tax to be added to the available school fund, or a special tax for the erection of school buildings. The county superintendent is an officer chosen at the discretion of the commissioners' court, and his duty is the general superintendence of all public free schools in the county. This general superintendence devolves upon the county judge when no distinctive officer is elected.

In cities, or in towns that are constituted distinct school organizations, six trustees, if a majority of the legal voters consent, are elected, holding office four years, three being elected every two years. The mayor and county judge are *ex officio* members of the board. If no trustees are elected or provided for, the town or city council or board of aldermen

exercise the powers that would have been vested in the trustees. The city school districts may issue bonds for the purpose of erecting school buildings, but the county districts cannot. In the districts or communities the "school fund may be used for erecting, furnishing and repairing school-houses," provided the district or community contribute an amount equal to one-third of the school fund for building, and provided a site be donated.

Villages and towns having two hundred inhabitants or more, may incorporate for school purposes alone, by the consent of a majority of the qualified voters living within the proposed district limits. For such a school organization five trustees are elected. It is a duty of the legislature to make provision for a six months' school term. There is a two-mill local tax allowed under the constitution which, if levied, would maintain good schools in the greater number of districts.

In 1889-90 there were 9,065 public schools taught in the State. Of these, the number of graded schools, not including cities, was 307, and the number of ungraded schools, not including cities, was 8,649, and the number of high schools, not including cities, was 109.

W. M. SANDERSON.

#### NOTE ON TEXAS.<sup>1</sup>

Twenty-six per cent. of the 2,235,523 inhabitants of Texas in 1890 lived in incorporated towns and cities. Four places contained from 23,000 to 38,067 each. Five had between 10,000 and 14,575, and twenty-four had between 3000 and 8300 each, while 329 other places, some of them incorporated, had an average population of 750.

The total receipts for school purposes in 1889-90 were \$3,208,965.16. Of this, \$377,147.28, or 11.8 per cent., came from local school taxes. The previous year it was 11.5 per cent. The State superintendent of education makes, in his report

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<sup>1</sup> By the Editor.

for 1889 and 1890, a strong plea for more local taxation, declaring that "not one-tenth of the area of the State is covered by local school tax," but adds that the area so taxing itself is rapidly growing, and that "the law framed in pursuance of the constitutional amendment of 1883, authorizing local taxation, throws many obstacles in the way of the levy of local taxes...The law, as it stands now on our statute books, is distinctly behind public sentiment in this State and ought to be amended."

## VI.

### LOCAL GOVERNMENT IN ARKANSAS.

Arkansas has the County System. The counties are divided into townships. Each township elects one constable and one justice of the peace for every two hundred electors, but every township must have at least two justices of the peace. These townships have no direct control over their own local affairs, since there is no town-meeting as in the New England States.

The County Court has the real control of all the local affairs of each township, excepting schools and certain matters under the control of the justices of the peace. Each county court has exclusive and original jurisdiction in all matters relating to roads, appointment of viewers and overseers, also in all matters relating to bridges, ferries, paupers and vagrants; it fixes the place of holding elections, purchases property for and sells property of the county, pays out all money for county purposes, and has full control in all other things that may be necessary to the internal improvement and local concerns of the county. This court, composed of the county judge, with a majority of the justices of the peace, meets annually on the first Monday in July, to levy taxes and make appropriations for county purposes. This court regularly meets four times a year, but the county judge, on giving ten days' notice, may hold special sessions. The people biennially elect a sheriff, who is *ex officio* tax collector, unless the legislature appoints a collector. The people also elect a tax assessor, coroner, treasurer, and surveyor, and in each township a constable.

For roads the county court appoints overseers, who call out to work the roads all men between eighteen and forty-five years of age, for not more than five days a year. When a

bridge is to be built, the court appoints three viewers to locate the same and report plans. After the completion of the bridge by a contractor, the same three men, who are paid for the service \$1.50 a day, decide whether the bridge is built according to the contract. Where there is a swamp, the county court may allow the building of a turnpike and the charging of such tolls by a private company as the court may direct.

The result of all this is that Arkansas has bad roads, except in dry weather. No real effort is put forth to make the roads good. Their working is a sort of annual farce carried out under the solemn sanction of the law. Who could expect good roads from work of not more than five days in the year? Who could expect competent men to be willing to go as viewers and reviewers of bridges for the sum of one dollar and fifty cents per day?

The county court provides for the poor and the criminal class, and, on petition of a majority of the taxpayers, can purchase a poor-farm and provide a house of correction.

In 1836 Congress offered the State of Arkansas, just admitted as a State, the 16th section of every township and seventy-two sections of land known as the Saline lands. These three land grants from the Federal government were accepted and form the basis of the free school system.

In 1842 the legislature provided for the sale of the 16th section and for the election of trustees in each township. Schools were to be taught for at least four months in each year, and money was also appropriated to buy text-books. In 1867 the legislature levied a tax of twenty cents on the hundred dollars, and provided for a superintendent of public instruction, and also for a school commissioner in each county to examine applicants and grant licenses to teachers. No license had hitherto been required. The congressional township was made the unit of the school district. Unless a school was taught at least three months, the district forfeited its portion of the school revenue belonging to the county; but schools were not free to all until 1868. At that time the



State Board of Education was established, the school fund was increased, and it was decreed that all districts failing to have a school three months a year would forfeit their share of this fund.

This was the beginning of the era of popular education in Arkansas. The prejudice against free schools gave way, and separate schools were provided for the whites and the blacks.

In 1874 another constitutional convention was held, and the present system dates from that time. The State is divided into school districts, numbering 4,448 in 1892.

In addition to a State levy for schools of two mills on every dollar of valuation and a poll tax of one dollar per capita, each of these districts may levy a tax not exceeding five mills. In 1892 nearly sixty-five per cent. of the districts levied this maximum tax, and over twenty per cent. levied from two and one-half to four and one-half mills, and 590 districts, or 13.3 per cent., levied no tax. When it is remembered that in 1889, according to the United States Department of Education, the average State and local tax levy for schools in New England, New York, Pennsylvania, and New Jersey was only 4.39 mills, the total State and local tax of seven mills in Arkansas in 1892 is very creditable, although it only suffices to keep the country schools open about three months in the year.

Of the entire school revenue of \$1,096,269.51 in 1892, the State two-mill tax produced \$341,621.38, the district tax \$571,923.02, the poll tax \$167,419.81, and other sources \$15,305.30. These items are equivalent to 6.1 mills on the valuation. The State tax for normal and other schools, viz., the blind and deaf mute schools and the State University, adds over half a mill to this.

In 1876, when the district tax was reported for the first time, it amounted to \$88,000. In 1884 this had grown to \$346,521.26, and in 1892, as stated above, to \$571,923.02.

The Superintendent of Public Instruction calls for a reform of the school district system, and suggests the township school system as a substitute. This idea has been endorsed by a

majority of the county superintendents, but as yet no change has been made.

A school district must contain at least thirty-five persons between the ages of six and twenty-one years. If a district be divided by the county court, in accordance with a petition from a majority of the citizens, both districts must contain this number. In towns or cities, when twenty voters petition, an election is held, and the town or city, if it so votes, may become a single district, with six directors. The school directors, elected by the qualified voters of the district, hire the teachers, sign orders on the county treasury, purchase a site for the school-house and provide for the government of the school.

The chief development of local government in the State is the annual school-meeting, which resembles the Massachusetts town-meeting, though the powers are limited to school affairs. The directors must give notice fifteen days before the annual school-meeting, in which meeting all the qualified electors in each school district can talk and vote on questions relating to the school. By vote they decide to levy or not to levy an extra school tax, not exceeding four mills on the dollar; whether or not there shall be a school, and how long it shall be taught; select a site for a school-house where necessary; decide whether a part of their school money shall go to build a school-house, when one is needed. At the first annual school-meeting they elect three directors, who are to serve one, two and three years respectively, and at each subsequent annual school-meeting they elect one director.

Here is a germ which may one day develop into real local government. The people may be trained in this annual school-meeting to take such interest in managing their own local affairs, that in time each township may wish to control all its own affairs in a similar manner. However, if the people are moving in this direction, their progress is, like that of a sluggish stream, scarcely perceptible.

B. W. DODSON.

NOTE ON ARKANSAS.<sup>1</sup>

There were in 1892 nine cities which taxed themselves sufficiently to keep their schools open eight months, and sixty-one towns which, in a similar manner, kept theirs open nearly six months. A most interesting phase of local government in the South is presented by statements in the report for 1892 of Mr. J. H. Shinn, State Superintendent of Public Instruction. He says that though nine-tenths of the school tax is paid by the whites, it is, in most cases, distributed so as to give equal length of school to both races. "Colored men may be elected directors of schools, and are so elected and control the boards of twenty per cent. of the school districts in the State, this being nearly the whole territory occupied by them. . . The following voluntary statement given by Jake Woods, a colored man in District No. 2, Pulaski county, is a fair sample of what the superintendent hears on all sides as he moves about over the State: 'We have three directors in No. 2, two negroes and one white man. We have no clashing whatever. There are 38 white children and 549 colored children. We have six schools, each of which is kept open free for six months. The negroes have five of these schools and the whites one. The whites pay about all of the taxes, although our race is beginning to gather some property. The white man selects the white teacher and we select the colored teachers. We pay the white teacher \$40 per month, and the same to a colored man who holds a first-grade license. My children are improving, and I am satisfied with the schools.'"

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<sup>1</sup> By the Editor.

## VII.

### LOCAL GOVERNMENT IN KENTUCKY.

The history of Kentucky has determined the character of her local government, whether it should be of the County or of the Township. Previous to the year 1776, what is now Kentucky was a part of Fincastle Co., Va. In that year Kentucky Co., embracing the present State of Kentucky, was established, with Harrodsburg as the county seat. There, on Kentucky soil, was reinstituted the Southern County, with its Justices, Sheriff, and Quarter Sessions, having the same powers and practices as in the older part of Virginia. In the year 1781 Kentucky County was divided into three,—Jefferson, Lincoln, and Fayette, separated from each other by the Kentucky and Green rivers. Again the Virginia county-machinery was established in each division, with the addition of an officer in charge of the county militia and having the rank of colonel.<sup>1</sup> The work thus fairly begun was carried on to its legitimate end. Every division of the original counties saw a set of officers established in the new county corresponding in every particular to those in the old ones. More recently there have been some irregularities in the names of some of the officers, and in some few cases in the division of work among them. But in general the development has been very uniform, and the counties of Kentucky of the present, as would be expected, are governed much like those of Virginia.

The character of the government of a State is determined very largely by its constitution. Kentucky has had four constitutions. The first was adopted in 1792, the second in 1799, the third in 1848, and the last in 1891. Under the

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<sup>1</sup> Doubtless the origin of the Kentucky Colonel.

first and second constitutions, all judges, justices, sheriffs, constables, and clerks of courts were appointed by the Governor. The revision of 1848 was effected to make these officers elective. The new constitution of 1891 was necessary, because that of 1848 provided for slavery. The State is at present in a period of transition. The new constitution is in force, but the General Assembly has not yet so revised the statutes as to conform to the constitution. This discussion describes, in the main, the government as it existed under the constitution of 1848, and mentions the fact when the new constitution provides for a change.

#### COUNTY ORGANIZATION.

Each county of Kentucky has a Judge of the County Court, a Clerk of the County Court, a Sheriff, a County Attorney, an Assessor, a Surveyor, a Coroner, a Superintendent of Schools, a Clerk of the Circuit Court, and a Jailer.

The County Judge is elected by the qualified voters of the county for a term of four years. He is a very important official. He is a magistrate, and has jurisdiction of both civil and criminal causes. He is required to take and approve the bonds of county officials, appoint guardians and administrators and make settlements with them. He establishes magisterial districts and election precincts, appoints election officers, and presides over the Court of Claims.

The Clerk of the County Court is elected for the same term and in the same manner as the county judge. His duties are clerical: to record the proceedings of the county court, to record all deeds and mortgages, to issue marriage licenses, and to be the custodian of all important documents and books.

The Sheriff is ineligible for a third consecutive term of two years. His duties are those usually devolving upon that time-honored officer, and, in addition, he is State and county tax collector.

The County Attorney is elected for four years and has the usual duties of his office.



The Assessor is elected for a term of four years, and receives as compensation a commission on the amount of property assessed. In addition to returning a list of all taxable property, with a full and fair value affixed, he also returns a list of all horses, mules, cattle, stores, pleasure carriages, watches, pianos, gold and silverware, all legal voters, enrolled militia, and children of school age. Upon failure to accept the office after election, he is fined \$500. His work is revised by a board of five Supervisors.

The Coroner is in one respect the highest official in the county. He is the only person who has power to arrest an offending sheriff. He may also execute processes in other criminal, penal and civil cases. When so doing, he is governed by the same laws as apply to the sheriff. His other duties are common to all similar officers.

The County Superintendent is elected for four years and receives a stated salary. He is not eligible for election till he has obtained from the State Board of Examiners a certificate of qualification. It is his duty to have general supervision of the common schools, to lay off, alter or abolish districts, to visit schools, to draw moneys due the county for schools, to pay teachers, to make a settlement with the county judge, and report to the State superintendent. This office is frequently held by young law students who know and care very little about schools. The small salary of \$200 to \$500 helps to tide them over the starving time in a lawyer's life. Only four counties in the State pay as much as \$1,000 per year. Incompetent men keep the schools in bad repute, while the low wages have a tendency to keep competent men out of the work.

All these officers must be at least twenty-four years of age, except the clerks of the county and circuit courts, who must be at least twenty-one.

Vacancies in any of these offices, save the county judge and clerk of the circuit court, are filled by the county judge. A vacancy in the county judgeship is filled by the justices of the peace. A vacancy in the office of circuit court clerk is filled by the judge.

## COURTS.

The Court of Claims is a county court held by the college of justices, two from each magisterial district, and is presided over by the county judge. It meets once each year, but may be convened oftener by the county judge. Its powers and duties are those usually given a board of county commissioners. The new constitution provides that the General Assembly may abolish this court and delegate its powers to a board of four, including the county judge, who shall be president. The duties of the court are "to fix the county levy, to make appropriations for the benefit of the county, to provide for the maintenance of the paupers, to fix the salaries of certain county officers and make appropriations therefor, and do such other acts as may be lawfully required." Among these other acts is its supervision of the sanitary condition of the county and its power to appoint a county health officer and a county physician and fix the salaries of the same. It is the duty of the county physician to attend all the paupers of the county, both in and out of the county poorhouse.

Taxes levied for county purposes must be levied by county authorities. All taxes must be levied for a stated purpose, and all money so collected must be expended for the purpose for which it was levied. All license fees on franchises, or special or excise tax, though regulated by State law, are under the control of local authorities. The court of claims builds all public buildings and has general charge of them, builds bridges, buys lands and erects buildings for the poor, and appoints overseers, and is in short a general administrative body. It will be seen that this board of justices in Kentucky bears a striking resemblance to the English Quarter Sessions prior to the recent changes,—another evidence of the English origin of American institutions.

To assist in the administration of justice, public schools and public roads, the county is divided into three sets of districts each independent of the other. (1) The Magisterial District is the largest of these divisions. Heretofore there has been very little regularity as to the size and number of these dis-

tricts, but the new constitution provides that there shall not be fewer than three nor more than eight. The new constitution also provides that the General Assembly shall supervise the formation of new districts. There will now be more uniformity of size. The Magisterial District serves the double purpose of a voting precinct and an area of convenient size for the election of a justice of the peace. In some cases, however, there are two or more precincts in the same magisterial district. The boundary of the one never extends beyond that of the other. In some cases these districts have taken on, in part, the powers and practices of a township, by levying taxes to build bridges and by subscribing to the stock of railroads. There is at this writing a discussion in the General Assembly as to whether the taxing district for school purposes shall be the school district or the county. There is a probability that this matter may be compromised by making the magisterial district the taxing district for school purposes. This would be giving the magisterial district another of the powers of the Northern township. Doubtless in time it will take on all or nearly all of them.

There are two justices elected in each district every four years. Each justice holds a regular court every three months, and may hold a called court for the trial of certain causes. He has limited jurisdiction in civil causes, is a conservator of the peace within his county, and can inflict fines and imprisonment for penal offenses of a certain character. He can hold investigating trials, when persons are charged with felonies or high crimes, and require bail. He can bind persons to keep the peace. He is also a member of the court of claims.

A constable is elected in each magisterial district every two years. His duties are those usually devolving upon such an officer. In case a county should fail to elect a sheriff, the duties of that officer, save that of tax collector, are performed by the constable. Many of the counties of the State have at one time or another voted taxes for the construction of rail-

roads, and in some cases have given bonds, before they got the roads, and have never secured them. In order to keep from paying the taxes, counties have refused to elect a sheriff, whose duty it is to collect the taxes. The constable performs his other duties and the taxes are farmed out to the lowest bidder. There is always an understanding that the tax for the road shall never be asked for.

Vacancies in the office of justice or constable are filled by appointment from the Governor of the State,—another relic of the earliest constitutions, in which provision was made that all court officials should be appointed for life by the Governor.

#### SCHOOL DISTRICTS.

Dr. E. W. Bemis (Johns Hopkins Historical Studies, Vol. I., No. 5) has shown how in the West the school-house has been the nucleus of civil government, as the church was in New England. Dr. Bemis also prophesied that this would be true of the South. The prophecy seems to have been realized, in a measure at least, in Kentucky. The school-meeting in many places resembles very strikingly the town-meeting of Massachusetts. It is an assembly in which all the qualified voters, including widows, meet to settle by direct vote who shall be trustee, what amount of tax shall be assessed and for what purposes, who shall be the teacher and what his salary. The selection of a teacher and the levying of a tax for repairs, fuel and incidentals are powers which the board of trustees may exercise without consulting the people. But in many instances even these are submitted to a vote of the people. I have already shown how this power of levying taxes for school purposes may ere long be given over to the magisterial district, at least the power to levy a tax for teachers' salaries. There is one advantage to be gained by this. The large and wealthy districts would help to pay the expenses of the small and poor ones. As it is at present, the small and poor districts must either have a shorter term or pay a higher rate of tax.

School districts are established by the County Superintendent of Schools. No district can include more than one hundred children of school age, unless it contains a town or a village within its limits. Each district is under the control of a board of trustees, three in number, elected by the district. One must be elected each year for a term of three years to fill the vacancy made by the one retiring. The chairman is the one having the shortest time to serve. The board is a body politic. They may rent or buy property for school purposes. They may levy a tax to repair a school-house, to supply fuel, etc. Until recently the board could levy no tax without a vote of the people. It was hard to get the voters to vote a tax, until it was absolutely necessary. As a result of the new law a great improvement in school property is noticed. The trustees have general control of the schools. They can employ teachers, and may remove them for cause, subject to the approval of the county superintendent. They must take the school census and report the same to the superintendent along with other matters showing the general condition of the school. For neglect of duty they are subject to fine and removal. As a matter of fact there are very few who do not sorely neglect their duties.

The school fund is derived from several sources. The State levies a direct tax of 22 cents on \$100 worth of taxable property. There is a sinking fund of about \$3,000,000, on which the State pays 6 per cent. interest. Certain counties hold State bonds, the interest on which goes into the school fund. All this the State distributes to the several districts, in proportion to the number of children of school age. This can be used only to pay salaries. Many districts supplement this by a tax or voluntary subscription to prolong the school. Many rural districts have received permission from the State by special act of legislature to form themselves into corporations, with special rights and privileges, to establish a system of school with high school department. These seem to work well, but always meet with more or less opposition from the large property-holders who have no children to send to school.



I give below such selected statistics as may be helpful in forming an idea of the working of the Kentucky schools.

ITEMS.	WHITE.		COLORED.	
	1888.	1891.	1888.	1891.
Number of districts.....	6,628	6,815	1,004	1,060
Number of schools taught				
five months.....	5,329	5,529	774	785
four months.....	733	741	94	120
three months.....	556	530	118	147
School census.....	549,732	573,704	107,170	112,815
Enrolled in schools.....	344,856	360,913	51,180	55,474
Per cent of attendance....	35	37	26	28
Tuition per month:				
county schools,.....	76c	83c	92c	1.02
city com. ".....	\$1.17	\$1.18	88c	98c
city high ".....	\$2.84	\$3.33	\$2.50	\$1.90
Average wages per month,				
male and female:.....	31.21	34.62	34.87	41.51
Average wages city com-				
mon schools, males.....	131.51	128.22	59.51	60.55
females....	48.31	48.27	42.69	43.93
Average wages city high				
schools, males.....	134.28	151.00	95.00	83.30
females.....	79.34	78.97	.....	.....
School money, State app'mt.	104.448	1,290.834	203.623	253,840
" local tax....	558.835	716,166	22,648	23,015
Per capita, State.....	1.90	2.25	1.90	2.25
" local tax.....	1.01	1.23	.21	.20
" int. county bonds	.04	.04	.04	.04
Av. school term, country...	5 mos.	5 mos.	5 mos.	5 mos.
" " city.....	9 mos.	9 mos.	9 mos.	9 mos.

#### ROAD DISTRICTS.

Some counties keep their roads in repair by a direct property tax. The roads are then let out to the lowest bidder. It is the business of this person to keep the roads in order; he lays himself liable to a fine if he fails to do so. Under this system one man is made responsible for the condition of the roads, and the people see, generally, that he does his duty. The system works well, and the writer does not know of a single instance where a county has gone back to the old plan after trying this. Under the old system, and that generally

in use, the county judge divides the county into a number of districts of convenient size, and appoints a surveyor for each district. It is the duty of this surveyor to notify "all male persons over sixteen and under fifty years of age" to appear at such time and place as he may direct, to work the roads. In this way the roads are kept in order by a sort of poll-tax.

#### MUNICIPALITIES.

The entire population of Kentucky, according to the census of 1890, is 1,858,635. The then population in incorporated towns and cities was 503,216, or 27 per cent. of the entire census. The per centum of urban population is greatly on the increase. In some cases the rural districts have lost, while the cities and towns universally show a decided increase. Again, owing to the building of railroads and the growth of towns about the stations, the number of the towns is constantly and rapidly increasing. In 1880 eleven cities had a population each of more than 4000. In 1890 the number of that size was sixteen. The aggregate population of the eleven in 1880 was 231,720; that of the sixteen in 1890 was 325,289,—an increase in the population of cities of this size of 93,569, or 40.38 per cent., while Winchester, Henderson, Richmond, Paducah, Owensboro, and Bowling Green each showed an increase of more than 50 per cent.

The urban districts of Kentucky are divided into three classes by their forms of government. A city is a municipality, having complete self-government by means of a mayor and a council. A town is an incorporated district wanting some of the forms and many of the privileges of a city. A village is an unincorporated town. There are at present in Kentucky twenty-five cities, two hundred and forty-eight towns, and more than one thousand villages. The government of the cities and towns is based upon special charters granted by the General Assembly. There is such a want of uniformity in their government as to make description very difficult. Happily, a description is not necessary. The new constitution provides for complete uniformity in the future.

Section 163 of the new constitution says: "The cities and towns of this commonwealth, for the purposes of their organization and government, shall be divided into six classes. The organization and powers of each class shall be provided for by the general laws so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. To the first class shall belong cities with a population of one hundred thousand or more, and the city of Louisville is hereby declared a city of first class; to the second class, cities with a population of thirty thousand or more and less than one hundred thousand; to the third class, cities with a population of eight thousand or more and less than thirty thousand; to the fourth class, cities and towns with a population of three thousand or more and less than eight thousand; to the fifth class, cities and towns with a population of one thousand or more and less than three thousand; to the sixth class, towns with a population of one thousand or less." According to this provision the classification will be as follows:

CLASS.	NUMBER.	AGGREGATE POP.	AVERAGE POP.
1	1	161,129	161,129
2	1	37,371	37,371
3	5	79,954	15,991
4	16	71,444	4,561
5	39	62,518	1,609
6	216	90,800	425

Besides these there are some fifteen hundred villages of various sizes. About one thousand of these have an average population of one hundred. Some of these have a population of one thousand or more, and many of them more than five hundred. A large number of these will doubtless be organized as towns under the new constitution.

The new constitution fixes a maximum rate of taxation in the municipalities of the different classes. It also fixes the amount of bonds which any taxing district may issue, at a certain per cent. of the taxable property, differing in the different classes. The new constitution likewise fixes a maximum

limit of the time for which bonds and franchises may be given. It provides for certain reforms in city government by requiring that many of the councilmen and members of the school board shall be elected by the city at large, and by prohibiting all bills of a local nature, which have been the curse of good government in Kentucky. All local government must now be provided for by general laws.

The outlook for improvement in the local institutions in Kentucky is very bright. In no time in the history of the State have the people taken so great a part in the management of local affairs. The people are beginning to understand that the nearer a home government is to a people the better it is likely to be and the less the liability of fraud. The writer predicts that Kentucky will ere long take on a form of local administration resembling that of Illinois or Indiana.

J. W. FERTIG.

## VIII.

### MISSOURI.

It has been often pointed out that the fatal weakness of the French as colonizers consisted in the fact that local government had no place in their colonial system. There was no individual initiative among them, so that, when they came into competition with the American pioneers of the Northwest, they were soon completely distanced in their attempts at settlement. When the United States acquired the territory of Louisiana, several quite important settlements already existed within the present limits of the State of Missouri. Of the total population of these settlements, 3,760 were French, together with a few Spaniards, 5,000 Anglo-Americans, and 1,300 blacks, for the most part slaves. French customs prevailed. Trade had been retained in the hands of a close corporation, and the entire control of affairs had been highly paternal. Yet the people had prospered fairly well, for both France and Spain had sent them good and wise governors. Progress was, however, very slow, and the outlook for any considerable increase of settlement most unpromising.

Soon after the United States came into possession of Louisiana, Congress passed an act dividing it into two parts, the Territory of Orleans (now the State of Louisiana) and the District of Louisiana. As by far the greater part of the French people resided in the Territory of Orleans, this division allowed the Americanizing tendencies of the District of Louisiana to assert themselves more quickly and effectually. The same act which divided the territory also made the District of Louisiana, or "Upper Louisiana," a part of the executive department of Indiana under Gen. W. H. Harrison. Under the supervision of Gov. Harrison much of what is now



the State of Missouri was divided into four districts, each having a civil and a military commandant.

On the 3d of March, 1805, the District of Louisiana was regularly organized into the Territory of Louisiana, and President Jefferson appointed Gen. Wilkinson governor of the new territory. Gov. Wilkinson, together with the three judges of the Superior Court, made up a legislative board for the territory, the first distinct step toward its local government.

In 1812 the Territory of Missouri was organized, and on the 1st of October of the same year Governor Clark issued a proclamation as required by Congress, reorganizing the four quasi-military districts, formed by Gen. Harrison, into five counties. Since that time the county has remained the almost exclusive civil division for local purposes in the State. Within the last two decades, however, the township, having won a permanent place in the Northwest, has been making its way slowly to the southward, as the old conditions resulting from slavery have yielded slowly to the new order of industrial growth, with its more sharply marked local interests.

As the early settlers of Missouri were, for the most part, from Kentucky, Virginia, and other Southern States, it was but natural that the county should be adopted as the chief and only local division. All of Illinois and large parts of Kentucky and Tennessee were at times counties of Virginia and North Carolina. In the settlement of the West the county has always preceded the township. This is chiefly because of its judicial functions. It is more easily adopted, as it is more artificial and built less upon special local habits and customs than is the township. It secures law and order, the first great necessities of frontier communities. Some new town centrally located is usually selected as a county seat, where all county records may be safely kept, those of land entries being of the most immediate and vital importance to a new and rapidly increasing settlement. The services of the county surveyor, an officer with little to do in an older community, are in constant demand, thus emphasizing the importance of

the county. For a while, people content themselves with very poor roads, frequently going long distances to avoid sloughs or to find fordable crossings over large streams. Such few large bridges as are indispensable the county can best construct, so, in any case, there is little necessity for township road management. Paupers are of the rarest occurrence in such communities. Every one is self-reliant. What each most desires is to be assured of a safe title to his land and protection against the outlaws which so often infest frontier settlements. But even this evil he sometimes overcomes by forming with his scattered neighbors a vigilance committee, which strikes evil-doers with terror. In no part of the country have these various phases of frontier life been better exhibited than in the States of the Southwest, where the Virginia county has been uniformly adopted.

When Missouri became a State in 1821, the five original counties had been subdivided into twenty, and the first State legislature passed a general law for county organization. All county business was vested in a court to consist of three judges styled "justices of the county court." This court was to have original jurisdiction over all matters of county concern, to appoint guardians, fix county lines, conduct elections, raise revenue, build bridges and regulate taverns. The court was authorized to divide the county into three districts, each one of which was to elect a county judge. The county has been changed many times since its adoption, though not materially save once. Most of the changes prior to the civil war were toward a greater centralization of power in the court. The one notable exception to the continued organization of the court, as thus outlined, occurred in 1825, and is chiefly of interest as a freak of American legislation. Its purpose, obviously, was to remove the control of local affairs as far as possible from the people, and it was an invention of State interference in local matters not unworthy of comparison with some of the best efforts of French statesmanship. A law was passed making the court to consist for one year of all the justices in the county. At the close of the first year this tem-

porary court was to select not less than three nor more than seven justices to constitute a court for the following year, and in this way the members of the court were to appoint their successors at the end of each year. The justices were not elected by the people, but, after a cumbrous process of nomination, were selected by State authority. Upon petition of twenty white citizens it became the duty of the county court to make out a list of persons suitable as justices of the peace. Out of this list the State senator or representative from that county or district nominated certain ones, who were elected by the legislature and approved by the Governor. Thus, intermediate between the people and the county court, stood the State government, while the court itself was self-perpetuating. This system very soon broke down from its own weight, and the court was again made to consist of three judges as before.

As constituted at present, the county court consists of three judges, two of whom are elected for two years. For this purpose the county is divided as nearly as may be into two equal districts, each of which elects a judge. The third judge is elected by the county at large for four years and is president of the court. The court has lost most of its judicial powers. In a few cases, not otherwise provided for by law, it still has a right to summon witnesses and to examine them on oath touching any matter in controversy. While the court has a considerable range of legislative privileges prescribed by statute, its chief functions now are of an administrative character. It exercises control over all property, real and personal, belonging to the county, and has a wide latitude of discretionary powers to devise ways and means for the same. It is also the duty of the court to audit, adjust and settle all accounts to which the county is a party; to order the payment, out of the county treasury, of any sum of money found due by the county on such account, and to order suit to be brought by the prosecuting attorney, in the name of the county, against any delinquent. It has control of the county finances, directs the levy of taxes, and sits with the county clerk, surveyor, and assessor as a board of equalization to adjust the assessment of property for taxation. It is also custodian and manager of

the school funds of the county, and exercises supervision over all county officers. It is in fact the superintendent of all county interests. The law provides that four terms of the court must be held each year. In counties of 75,000 inhabitants it is required to hold a meeting every month. Each judge receives mileage fees and a *per diem* consideration for all time spent in official business.

From the very fact that the county is best suited to the broad, crude conditions of pioneer communities, we may justly infer that, as population becomes denser, local government, to be effective and democratic, should be more localized. Thus only may each citizen have an opportunity to exercise that privilege and responsibility which, under right conditions, should bring out the highest results of citizenship. Very early in the settlement of the Northwest the people from New England began to adopt the township, making it a part of the county and transferring to it the management of all the more strictly local affairs. This went on successfully and naturally in States like Michigan, Wisconsin, and Minnesota, where New Englanders predominated; but in Illinois the first settlers were mostly from Kentucky and Virginia, and the county was of course the ultimate division for local purposes. As the people from New England began at last to pour into Illinois, chiefly into the northern and central parts, a struggle inevitably arose as to whether the county or township should be the chief local unit. The new constitution of 1847 compromised the matter by authorizing the legislature to pass a law permitting the people of any county to adopt township organization or not, just as a majority might elect. Under this law many counties voted to adopt the township at once, and others have continued to do so, until only 18 out of 102 counties of Illinois are still without township organization. Not more than two or three counties have ever abandoned the system after having once adopted it.<sup>1</sup>

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<sup>1</sup> Letter from Secretary of State Pearson, who also says that the best and perhaps the only argument in favor of county, as compared with township government, is the greater expense of the latter.

Nor has the triumph of the township been due entirely to the fact that New England people came to predominate, for many of the counties which were chiefly settled by Southern people have adopted the system after becoming familiar with its merits. It would thus appear that in Illinois the township has, by a fair test, established its superiority over the county, for purely local purposes. The conditions of Illinois which have exerted a formative influence on its local system approach much nearer to those which produced the township in New England than to those which produced the county in Virginia.

Following the example of Illinois, Missouri inserted a clause into her new constitution of 1875 authorizing the legislature to pass an act making township organization optional with the counties. Previous to this, in 1872, a law was made providing for township organization, but was defective, for several counties, after having tried it, abandoned the system, and the law was repealed. This act provided for too radical a change, for it abolished the county court without providing an efficient substitute. Experience seems to prove that a careful integration of the township and county is required to give the best results. In 1879 an act was passed in accordance with the constitutional provision, and under this law 16 of the 114 counties of the State have adopted township organization.

As organized, the township is a body corporate, with powers to sue and to be sued, to purchase and hold real estate within its own limits for the use of its inhabitants, to make contracts, purchase and hold personal property, and to make all necessary regulations for the use of its corporate property. The functions of the township are all prescribed by statute. At the usual place of voting in each township, biennial meetings of all qualified voters are held for the election of township officers and for the transaction of such other business as may be necessary. The officers to be chosen at these meetings are a trustee, who is also *ex officio* treasurer of the township, a collector, a clerk, a constable, two members



of the township board of directors, two justices of the peace, and as many road overseers as there are road districts in the township. The overseer of any district, however, must be elected by the voters of his own district. Though the law provides that these meetings, besides electing the township officers, shall "transact such other township business as may be necessary," yet these meetings do not, like the New England town-meetings, transact all the township business, but merely vote on certain important measures which it is deemed prudent not to leave entirely to the township officers. The township is represented in its corporate capacity by a board of directors, consisting of two members elected solely as directors, together with one of the township trustees. This board audits all accounts and signs all orders and official acts, including provision for roads and the building of bridges which cost less than \$100. It also fills all vacancies in township offices and receives resignations. The board is required by law to meet three times each year and as much oftener as the interests of the township may require. At its first annual meeting the board elects one of its members president, and it is his duty to sign all orders and official acts of the board. The duties of the other township officers are so clearly indicated by their titles that a description of them here is unnecessary. Each officer receives a *per diem* compensation for his services, in addition to which the clerk and treasurer receive special fees.

The smallest corporate body for public purposes in Missouri is the school district. It must contain at least twenty pupils of school age, and must maintain separate schools for white and colored pupils at least six months annually. On the first Tuesday of April the qualified voters of the district, in annual meeting, determine the length of the school term over six months; fix the amount of school levy in excess of 40 cents on \$100; vote funds for the school library; decide as to the disposition of school property, location of school-house, and as to changes of boundaries of the district; and ballot for county commissioner or superintendent, and for one of three

school directors, who hold office for three years. The directors elect a president and a clerk and exercise control over the school property of the district. They make rules for the organization and grading of the schools, employ teachers, visit the schools, enumerate the pupils, and estimate to the county clerk the probable annual cost of maintaining the schools of the district.

In the formation of school districts little attention has been paid to county, township or section lines. Frequently a school district lies in two counties, in two congressional townships and in two municipal townships. "These irregularities result from several causes. Sometimes streams are impassable or are dangerous to cross, and the boundary line of the district is made to conform to the course of the stream. Sometimes the taxable value of the property of a district is small, and to relieve the burden of taxation a small portion of another district is added, it may be only a ten-acre tract out of a man's farm. Small tracts are thus frequently added when they include a residence and outbuildings. Sometimes a farm is of irregular outline and extended into a different district from that in which the owner's residence is situated, and he has the district lines so adjusted as to include all his property in one district. He thus avoids paying taxes in two districts and at different rates. Sometimes neighborhood quarrels, petty jealousies and contrariness render it unpleasant for men to be associated, and they separate by changing the boundaries of districts."<sup>1</sup>

It is precisely this overlapping of local territorial divisions which constitutes one of the most serious barriers to the development of the township in Missouri. This fact will be more easily appreciated after a brief examination of the growth of the township in other Western States. In the prairie States of the Northwest, congressional townships, those six-mile squares into which all land is divided by the United States survey, have furnished most convenient and natural terri-

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<sup>1</sup> R. D. Shannon in "Civil System of Missouri."

torial divisions for local corporate purposes, and have been extensively organized into civil townships. Since the 16th section of each congressional township is set apart by law for school purposes, it would seem but natural that the school district to which the funds arising from this section are to be devoted should be made to coincide with the township. This has been the line of development in most of the Western States, and in some of them laws have recently been enacted creating each civil township into a school district. It has therefore been said that the school is the nucleus of the township in the Western States, as the church was in the early days of New England. Such a course of development, it will be readily seen, would be greatly hindered, if not prevented, by the utter lack of coincidence among the local divisions of Missouri. There is a growing tendency, however, to divide the school districts so that they will not be in more than one county or township. A recent statute of Missouri provides that hereafter, except in certain rare cases, no school district shall be formed that is divided by a county line.

While the independent school district is more local than the township school district, it is, as a rule, less efficient. There are, in nearly all communities, people who are too ignorant or too indifferent to attend school meetings, or who, when they do attend, oppose any levy whatever for school purposes. In the independent districts of some of the Western States a majority of foreign voters has in this way actually prevented the erection of school-houses imperatively needed. Such difficulties are largely prevented, and a much more intelligent and uniform management of the schools is secured, where the township school district prevails. Such districts are divided into a number of sub-districts, usually nine, where the township is regular, or six miles square. Each sub-district elects a director, who, together with the other sub-directors of the township, constitute a board for the management of the school affairs of the township. The sub-district, as a rule, chooses one of its ablest and most public-spirited citizens as director, and a township board is thus made up of men much

more capable of controlling the township schools wisely than are the districts themselves. No district can therefore, by a majority of indifferent or hostile voters, cripple the efficiency of its school by refusing it necessary funds. Owing to the superiority of the township school district it has been rapidly coming into favor in most of the Northern States, and is favored by most superintendents of public education both North and South. Missouri is no exception to the rule.

One of the objections urged against the township system in Missouri, and indeed the chief objection, is that it is more expensive than the county system. If, however, the township system were made to control the public school as well as other local functions, it is not improbable that enough would be saved in this one item to pay all the running expense of the township. There is no reason why this would not hold good in Missouri as well as in the older States of the North. The more nearly all the different local interests of the community, whether pertaining to the school, the roads, or taxation, are identified with the township, the more efficiently will they be administered and the more strongly will the township command the respect and attachment of the people.

While but comparatively few of the counties of Missouri have township organization, the movement of all legislation on local matters, in the last few years, has been toward township development. From the earliest pioneer days the county has been divided into districts, known as municipal townships, which, contrary to what their name would indicate, have no municipal privileges. In use they correspond closely to the precinct of the early Virginia county, as they existed merely for county purposes. As the counties have been reduced in size, these municipal townships have been made smaller by the county court, so that their present size has suggested a convenient enlargement of local administration. This occurred in 1888, when the legislature passed an act incorporating the municipal township for road purposes. Each municipal township in the State, except those having the regular township organization, was declared to be a body

corporate for road purposes only, by the name of "—— road township." These townships were given entire control of road matters, such as belonged to the organized townships, including the power to levy taxes not exceeding in any one year 40 cents on the \$100 of assessed valuation of all taxable property in the township.

In counties having township organization the people seem for the most part to be very much attached to it. It relieves those who live in distant parts of the county from the necessity of going to the county-seat on purpose to pay their taxes. The people of the township are much more interested in the improvement of the roads than is the county court, and larger levies are more readily obtained. As a matter of fact the highest levies for road purposes are said to be in the organized townships, a fact which should be borne in mind, when the expense of the township is compared unfavorably with that of the county, for such an expense is indeed an investment yielding an increased return. The county court is often indifferent to the needs of a particular part of the county, and dispenses its official favors so as to require political support. Indeed, it is quite frequently charged with corruption, and there is much to give color to such charges. Under township organization it is claimed that the collection of taxes is much closer than otherwise, thus making up in part for the increased expense of the township. There are some who oppose the township system because of the great number of local officers necessary under it. These officers, they claim, are too ignorant, as a rule, to perform efficiently the duties required of them. This objection was made to the writer by several county judges. It is generally conceded, however, that while there is some ground for this charge at first, yet, after a time, it disappears, showing conclusively that the township is a great educator in local government, which is indeed one of the highest claims urged in its favor by all writers from De Tocqueville to Bryce.

Of the sixteen counties having township organization, twelve are in the northwest part of the State and four are in



the western tier south of the Missouri river. The last census report shows that there are in all of these counties more people of Northern than of Southern nativity, a fact which largely explains the adoption of the township in these counties. The foreign population is very light, which should be favorable to good local government. Nor is this advantage counterbalanced by the negro population, for in ten of the counties these people do not make up four per cent. of the population, while in the other six they form less than ten per cent.; nor are the proportions greatly different in a large part of the State. But one county has ever abandoned the township system as provided for by the act of 1879, and that was done merely to escape a special tax unwisely, if not unjustly, voted upon some of the townships. There is already a movement on foot, however, to reorganize the townships.<sup>1</sup> This is a significant fact, which the opponents of the township system, and especially the State officials, do not notice, for they give great weight to the fact that several counties have abandoned township organization, making no distinction whatever between counties organized according to the defective act of 1872 and those as organized at present in accordance with the act of 1879. For a great part of Missouri, however, the county is undoubtedly the best form of local government. The people are familiar with no other form, and population will not be dense for a long time to come. It is equally plain, however, that there are many other counties in which the present county system is becoming more unsatisfactory and that it must give way to a system in which the people shall have a greater share of activity. There are doubtless many defects in the present township system which will need to be remedied by the legislature. It can, indeed, scarcely be doubted that a concentration in the township of all the more strictly local functions would result in a system much more

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<sup>1</sup> The statements in the last few lines are derived from Prof. J. T. Ridgway, who is preparing a careful treatise on the working of local government in Missouri, and who has kindly given me several items of interest on the subject.

economical and effective than exists at present. Nor has the township had time as yet to adjust itself to the county system, and it is equally evident that the county organization will need to be modified so as to admit of a more perfect adjustment between its functions and those of the townships. Meanwhile there is growing up a political self-consciousness in regard to local affairs on the part of the people which promises much for reforms in this line.

There are also some purely political reasons urged as of decisive importance as to whether the county or township shall prevail. The presiding judge of a county court ended a list of charges against the township by saying that "finally he was opposed to township organization because his party, which had a good majority in the county, could not elect its ticket in some of the townships." This, however, should incline the people to favor the township rather than to oppose it, for their interests are not foremost with the spoilsman who would bestow all local offices as a reward for party service. There is much less partisanship in township than in county elections, and men are chosen with reference to their qualifications and efficiency more than to their party allegiance.

The cities and villages of Missouri, except St. Louis, remain parts of the counties in which they are situated. They are incorporated by act of the county court, and their rights and privileges are determined by statute. St. Louis receives special mention in the constitution, and its relation to the State is the same as that of a county. Cities are divided into four classes, 500 inhabitants being the lowest limit of a city of the fourth or lowest class. All towns containing less than 500 people are known as villages, which may or may not be incorporated. If unincorporated, the village is governed by the township or county in which it is situated. Upon application of two-thirds of its taxable citizens a village may be incorporated by the county court, when its incorporation becomes similar to that of a city. In cities of the fourth class the legislative department is known as the "Board of Aldermen"; in cities of the third class, which must contain at least four wards, as the "Council"; in cities of the second class, as the

"Common Council," made up of two councilmen from each ward; and in cities of the first class as the "Municipal Assembly," which consists of a council of thirteen members elected by the city at large, and a House of Delegates, composed of a member from each ward in the city, all elected for four years. In cities of the fourth class the mayor appoints the Treasurer, Collector, Street Commissioner, and City Attorney. In cities of the third class he appoints the Street Commissioner and such other officers as he may be authorized by ordinance to appoint. The Clerk, Engineer, Assessor, Counselor, and Comptroller are appointed by the mayor in cities of the second class. In cities of the first class the Attorney, Jailor, Assessors, and the Superintendents and Commissioners of the various public works are appointed by the mayor in concurrence with the council. The charter of St. Louis, adopted August 22, 1876, contains some safeguards against municipal abuse which are worthy of attention, as they have proved to work most satisfactorily, although there, as elsewhere, it has been proved that no machinery, however perfect, will atone for failure to elect competent rulers. One of the most important of these safeguards at St. Louis is that which provides that the chief offices to be filled by the mayor's appointment shall not become vacant until the beginning of the third year of his term of office. Owing to this provision, appointments by the mayor as rewards for political support suffer a serious inconvenience and have much less influence upon elections than formerly.<sup>1</sup>

Such, in brief, is an outline up to the present time of local government in Missouri, together with some of the influences which are now making for its more complete development in the future. It seems more than probable that the township which, under one name or another, has come down as one of the most valuable inheritances of the English race, will become the ultimate basis of local government in Missouri.

J. E. NORTHUP.

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<sup>1</sup> See "The City Government of St. Louis," by Prof. Snow, in Johns Hopkins University Studies for April, 1887.

\     NOTE ON MISSOURI.<sup>1</sup>

Of the \$5,266,564.09 received in 1891-2 for teachers' salaries and incidentals, aside from school buildings, sixty per cent. was raised by local district taxation, and most of the remainder came from the proceeds of government land grants.

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<sup>1</sup> By the Editor.

# POPULAR ELECTION OF UNITED STATES SENATORS.

BY JOHN HAYNES.

Is the Federal Constitution infallible? Is it impossible for this or future generations to devise beneficial changes in it? One would think so when he hears a demand for a constitutional change answered by references to the wisdom and patriotism of the fathers, by eulogies on their work, and by the statement that we have thus far done very well with our Constitution as it is. For views like this the writer has neither sympathy nor respect. The men who framed our government were great and wise. History attests their foresight and sagacity. But it by no means follows that the progress of a hundred years, the growth in political knowledge and the changed condition of our people can suggest no salutary constitutional modifications. We shall discuss the question of the popular election of United States Senators with no prejudice in favor of the existing method, but shall ask ourselves whether we ought to endorse the demand for a change which has found expression through the Legislatures of California, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, New York, Oregon, and Wisconsin, as well as in the platforms of numerous conventions of both parties,—a demand, too, which the National House of Representatives heard and answered by the almost unanimous passage, during the second session of the Fifty-second Congress, of a joint resolution for an amendment to the Federal Constitution. Surely such advocacy should secure a respectful hearing.

The part of the Federal Constitution providing for the choice of Senators by the Legislatures of the respective States was the direct result of a strong aristocratic feeling in



the convention which framed that instrument. There was a large section of the convention which, distrusting the people, desired to place power as far from them as possible. The monarchical ideas of the Old World, which still clung to the minds of men, showed themselves in utterances like that of Roger Sherman, when he said, "The people immediately should have as little to do as may be about the government." Dickinson wanted the body "to bear as strong a likeness to the British House of Lords as possible." Gouverneur Morris thought "the second branch ought to be composed of men of great and established property, an aristocracy," whose purpose he conceived to be "to keep down the turbulence of democracy." These were the principles which gave to the State Legislatures the power of electing United States Senators. They are to-day archaic and musty. They are not the sentiments of the American people. The last century has seen a mighty change. The people have come to their heritage. Democracy is now approaching its complete triumph. Here and there the will of the majority is defied with success and impunity, but such a condition is exceptional and transitory. While some question the advantage of the change, the people, including our wisest and most patriotic statesmen and students, are satisfied with it.

Our present method of choosing Senators is, then, foreign to our system, which is popular. The individual voter has an interest in every elective office. Our general system presumes that he has a right to express that interest, and, unless there be some weighty reason to the contrary, to express it "directly and not by indirection, in person and not by proxy." Our method of choosing Senators prevents this. It is justly arraigned by Senator Mitchell of Oregon in these words: "The system is unrepresentative, not democratic, and vicious in all respects. It carries with it the implication that the people, the qualified voters of a State, are for some reason unfit for the full exercise of the elective franchise in the choice of high government officials, except in a qualified and largely restricted sense. It is in practical purpose and effect

a declaration that for some occult reason, which is in no way made manifest, it is unsafe and prejudicial to the public interests to commit the election of Senators to a vote of the people." Were the Constitution to be formed *de novo* the Senators of the United States would receive their commissions directly from the people whom they represent.

Popular election would remove a growing distrust of the Senate. Rightly or wrongly, it is coming more and more into suspicion among the people. It is freely charged, and apparently with reason, that improper influences are brought to bear upon our Legislatures in the election of Senators. Corrupt means more easily reach the Legislatures than a popular electorate. To corrupt a whole people by bribery is most difficult, by patronage impossible. The small membership of Legislatures makes them especially accessible to both these means. Let us suppose a Legislature of one hundred members, fifty-five of whom are of one party. The successful candidate for Senator is named by the caucus of the more numerous party, a majority, or twenty-eight votes of which are necessary for a nomination. Suppose five members, or one-eleventh of the dominant party, corrupt (by no means a violent supposition), and it is evident that the candidate who can secure their votes gains a decided advantage. Only one-twentieth of the entire body need be influenced corruptly. One discreet agent can do the whole work in an hour or two. To accomplish the same result in a popular election would require many agents, much traveling, and a vast expense, which, moreover, might have to be twice undergone, first to secure the nomination, again to carry the election. It might be done, but would be far more difficult than corrupting a Legislature.

(The popular election of Senators would be a step in the direction of carrying out in its completeness one of the great fundamental principles of our Constitution, namely, that the spheres of the Federal Government and of the State governments are separate, and each supreme within its field of action. This is a doctrine than which no other is more firmly in-

trenched in the literature of constitutional law. "The dividing line between sovereignties," says Judge Cooley, "is usually a territorial line; in American constitutional law, however, there is a division between the National and State governments by subjects, the former being possessed of supreme, absolute and uncontrovertible power over certain subjects throughout all the States and Territories, while the States have the like complete power within their respective territorial limits over other subjects." "The powers of the General Government and of the State, though both exist and are exercised within the same territorial limits," says the United States Supreme Court, "are yet separate and distinct sovereignties, and the sphere of action appropriated to the United States is as far beyond the reach of the judicial processes issued by a State judge or a State court as if the line of division was traced by landmarks visible to the eye." This feature of our government is the pride of American writers and the admiration of foreign critics.

Following the principle to its logical conclusion, we might expect to find the same sharp division in the politics of the land; inferring that National politics would center about the great questions whose decision must be reached in the national capital, and that State politics would deal with questions falling within the jurisdiction of each State.

We might suppose that there would be two sets of parties, the people of the country at large being divided into two or more political camps along the lines suggested by issues of national concern, while the people of each State were divided into such parties as local circumstances might call into existence. Obviously this is an ideal conception whose complete realization is not to be anticipated; human nature is against it. We may expect that in the future as in the past, those who work together for the accomplishment of a desired end in national politics, by reason of their acquaintance with one another and with the voters of the locality in which they live, will tend to co-operate in local politics. The same tendency will cause men associated for the advancement of purely local

projects to work together in a wider field. We shall continue to have two strong political parties pitted against each other in nearly all elections. It is not too much to hope for, however, that under the proper circumstances both parties will have a distinct policy for each State, that State campaigns will be fought on State issues, not, as at present, for the most part on national issues, that the success or defeat of a party's State ticket will not imply the necessary or even probable success or defeat of the national candidates or *vice versa*. At present we often see two candidates for Governor scouring a State from center to circumference, discussing some national question on which the campaign is expected to turn. When we reflect that neither candidate, if elected, can directly affect the question under discussion in the least degree, the whole performance becomes a travesty on rational government; and when we remember that there is no dearth of questions of momentous importance which ought to be of absorbing interest, and with which one of these men will have to deal when he becomes Governor, the relegation of these questions to oblivion is a marvel of political stupidity.

Perhaps no one cause does more to perpetuate this anomalous condition than the election of Senators by the State Legislatures, which forces national affairs into State politics. •

This intrusion hampers the voter in the expression of his will. ( In casting his ballot he must often choose whether he will express his convictions on National or State questions. If he expresses them fully on National questions he is often not only precluded from a full expression on State questions, but is compelled to indorse State policies with which he has anything but sympathy. ) Are there instances of this in actual experience? Their name is legion. Let us take a single one. The elections of 1890 and 1892 showed that there was in Iowa a body of voters large enough to hold the balance of power in that State who were in sympathy with the principles and policies of the Republican party as expressed in its conduct of the National administration, and who disapproved of the same party's policy in the State. In what position did a voter



belonging to this number find himself in 1890? A Governor and Legislature were to be chosen. If the voter wished to express himself on the local question (prohibition) he voted the Democratic ticket, but thereby he endangered to some extent the national policy of the Republicans, for the new Legislature was to choose a United States Senator. If he voted the Republican ticket he lost his voice in State matters, or rather expressed himself in a way he did not desire. On one or the other horns of this dilemma he was sure to be impaled. Other instances in abundance will occur to any one who has followed the course of our political history.

The intrusion of National politics into the sphere of State action often causes Senators to sit in the national legislature who misrepresent the *settled* and *abiding* convictions of the major part of their constituency. This is brought about in two ways: First, by the minority party's securing control of the State Legislature. Cases of this kind are notorious. Connecticut, for example, in 1884, 1888 and 1892 cast her electoral vote for the Democratic presidential nominee, but the Legislatures of 1885, 1887, 1891 and 1893 chose Republican Senators. In the case of Connecticut this misrepresentation is brought about by a most inequitable method of choosing the Legislature; but the same result, though less likely, would be possible if all State legislators represented districts of exact equality in the number of their inhabitants. Secondly, misrepresentation occurs when a party which is or would be a minority party on National issues becomes a majority party in any State because State issues have temporarily obscured National issues. In off-years, *i. e.* when no National election was held, Ohio has repeatedly chosen a Democratic Legislature, and consequently has had a Democratic Senator continuously since 1869, and now has such a Senator whose term does not expire till 1897, though she has cast her electoral vote (with the exception of a single elector's vote in 1892) for the Republican presidential candidate since the organization of that party. Virginia, as a result of the contest over the readjustment of her debt, had



two Senators who acted with the Republicans, one of whom took his seat in 1881, the other in 1883, though the State gave the Democratic presidential nominee her electoral vote both in 1880 and 1884.

The most pernicious influence of the blending of National and State politics is its powerful tendency to divert the attention of lawmakers and people alike from vital State matters. The magnitude of this evil is apparent in view of the wide range of important legislation falling entirely within the field of State action. The laws which touch a man's daily life most frequently and most materially are State laws; laws in reference to property, marriage, inheritance, corporations, labor, public health, and pauperism. Does he commit a crime? He is tried in a State court. Does he pay taxes? He does so largely according to State law. Is his life safe and are his rights secure? The State makes them so. Does a mob threaten destruction and bloodshed? The State suppresses it. To defend a man against his commonest dangers the National arm is impotent. The baneful result of excessive interest in National affairs is manifest in the character and work of Legislatures whose members are chosen not so much for their fitness to legislate as for the positions they take on National questions. On this point James Bryce remarks: "In one respect this connection is no unmingled benefit, for it has helped to make the national parties powerful and their strife intense in these last-named bodies [State Legislatures]. Every vote in the Senate is so important to the great parties that they are forced to struggle for the ascendancy in each of the State Legislatures by whom the Senators are elected." The voters are urged to cast their ballots for certain candidates for the State Legislature because a United States Senator is to be chosen. Such a method results in sending inferior men to the legislative halls. The voter of independent tendencies is restrained from administering a just rebuke to his party and defeating an unworthy aspirant for office for fear of injuring some National policy dear to his heart. In 1892 it was urged upon the advocates of tariff

reform in New York that they must support the legislative candidates of the Democratic party lest they help send a Republican to the Senate. The argument was, under our system, as sound in logic as it was effective in practice.)

But what shall we say of a system that requires a voter to sacrifice what he considers the best interests of a great State like New York to his interest in tariff reform, which must come if it comes at all through the National Legislature? (When the Republicans of Massachusetts met in caucuses in 1892 to nominate candidates for the State Legislature, the question most often asked as to a possible candidate was, whom he favored for United States Senator.) What has such a question to do with a man's fitness to legislate for his fellow-citizens? In the memorable campaign between Douglas and Lincoln in 1858 the sole question made prominent in the canvass was whether Lincoln or Douglas should be Senator. With that question uppermost each voter decided for whom to vote for members of the State Legislature. Yet such is the perversity of the system that Douglas got the seat, though Lincoln led on the popular vote! If the people of Illinois got a good Legislature it was solely by the favor of a gracious Providence.

At a later period in the history of Illinois (1890) the Democrats in convention assembled nominated John M. Palmer for United States Senator, and though the party had a plurality of thirty thousand in the State, a long and terrible struggle was necessary to secure his election by the Legislature.

(After a Legislature is chosen, the election of Senator takes the time and attention of the members from their more legitimate functions.) The Legislatures of Montana, Washington, and Wyoming devoted their entire session of 1893 to this matter, and finally failed to elect. Contests full of bitterness and recrimination, which take the time and attention of Legislatures for weeks and months, as well as debauch their morals and ruin their reputations, are to-day a regular feature of Senatorial elections.

As has already been implied, the present system is a discouragement to independent voters, who may not inaptly be called the salt of the political earth. The less independent voting the greater the power of the bosses and their machine. Popular choice of United States Senators would tend to shorten the reign of the bosses in both local and national politics.

Strong as these reasons are, there are yet found those who, in addition to the sacrilege of amending the Constitution, present other arguments against the change. By far the ablest of the opponents is Senator Hoar of Massachusetts, who, on April 6 and 7, 1893, made an eloquent speech on the subject in the Senate chamber. We are able to follow his argument with special ease, as he called up at the same time a resolution, introduced by him three days before, which contains a summary of his entire argument. We will examine each essential paragraph in the Senator's own order. V

1. "Such a method of election would essentially change the character of the Senate as conceived by the convention that framed the Constitution and the people who adopted it." X

The writer cannot agree with this view. The Senate is differentiated from the House of Representatives and characterized by four peculiarities: a long term of service, a relatively small number of members, States for constituencies, and election by the State Legislatures. The first three of these are the ones which have given the Senate its two paramount excellences,—conservatism and skill in legislation. The long term secures conservatism and furnishes a check against hasty and inconsiderate action by preventing the party complexion of the body from sudden change in a temporary popular craze, and by keeping always in the body men who are conscious that they are serving their last term of political life. Its conservatism is the chief merit of the Senate, and rests principally on the length of service. This is the great essential of the body. The equality of the States sometimes helps its conservatism. The smallness of its membership adds greatly to its efficiency when dealing with intri-

cate matters of legislation, and tends to make it a truly select body. What, if anything, does the mode of election add? Does it secure more conservative or able men than popular election? It does neither. The conservatism of the Senate arises not so much from the essentially conservative character of its members as individuals as from the length of term and smallness of numbers, as already shown. Most of the men who have brought lustre to the Senate in the past would have been found there if the people had had the power of choice. Nearly all the able and useful members of the present day would be elected by the people of their respective States. We could well afford to lose those Senators who represent the minority party of their States. Find a Senator whose character is above reproach, whose usefulness is pre-eminent, and in all probability you find a man who has run the gauntlet of many a popular election before reaching the Senate. The election of Senators has degenerated from the original design of an indirect choice till it has become a mere formality. Senators are really nominated by the same influences which rule in party conventions. The leaders really make the choice.

\* James Bryce, that acutest of observers of our institutions, whose opinion is all the more valuable that he is an unprejudiced foreigner, says: "It is worth observing that the election of Senators has almost ceased to be indirect. They are nominally chosen, as under the letter of the Constitution they must be chosen, by the State Legislatures. . . . It is generally true that little freedom of choice now remains with the Legislatures. The people, or rather those wire-pullers who manage the people and act in their name, have practically settled the matter at the election of the State Legislature. So hard is it to make any scheme of indirect election work according to its original design."

\* The foregoing is a complete answer to the next objection, which is aimed at political conventions:

2. "It would transfer practically the selection of the members of this body from the Legislatures, who are entrusted

with all legislative powers of the States, to bodies having no other responsibilities, whose election cannot be regulated by law, whose members act by proxy, whose tenure of office is for a single day, whose votes and proceedings are not recorded, who act under no personal responsibility, whose mistakes, ordinarily, can only be corrected by the choice of Senators who do not represent the opinions concerning public measures and policies of the people who choose them." The fact that the Legislatures are "intrusted with all the legislative power of the States," as has been shown, is one of the best of reasons for not complicating their functions with one of National concern. A convention having "no other responsibilities" would be peculiarly fitted for its task. Our Presidents and Governors are nominated by conventions which have all the dire defects above described. We may be sure the country is at least as well satisfied with them as it is with the United States Senate. The Senator thinks it would be a serious misfortune to have Senators chosen "who do not represent the opinions concerning public measures and policies of the people who choose them." We have shown that this is just what happens under the present system. The fact is a powerful argument for its abandonment.

3. "It requires the substitution of pluralities for majorities in the election." This argument would have some weight if the "majorities" replaced were real majorities. They are frequently fictitious majorities. A majority of the Legislature is often elected by a mere plurality of the people, and sometimes by a party which has not even a plurality of the legal voters. Probably at least one-third of the present Senators are members of parties which do not marshal a clear majority of the legal voters of their respective States.

4. "It will transfer the seat of political power in great States, now distributed evenly over their territory, to the great cities and masses of population."

Should a man be wholly or partly disfranchised because he lives in a city? Who is better fitted to express the desires of a State than its legal voters even in choosing representa-



tives in that "Holy of Holies," the United States Senate? Does Senator Hoar represent the soil and rocks of Massachusetts, or does he represent her people? Is political power to be distributed by the acre?

5. "It will create new temptations to fraud, corruption, and other illegal practices, and in close cases will give rise to numerous election contests which must tend seriously to weaken the confidence of the people in the Senate." Under the present system the Senate has had several contests for seats in the settlement of which most virulent partisanship has been shown. It is charged that seats have been stolen in State Legislatures in order to elect Senators. The scandalous proceedings in the Legislature of New York in 1881, of Indiana in 1887, of New Jersey in the same year, of Montana in 1889, and of Kansas in 1893 ought to answer this objection sufficiently.

6. "It will absolve the larger States from the constitutional obligation which secures the equal representation of all the States in the Senate by providing that no State shall be deprived of that equality without its consent." In his speech the Senator says: "The States never consented to perpetual equality in a senate made up in any other way or on any other principle of selection. They never agreed that there should be forever between New York and Maine an equality in a legislative chamber which is only a house of representatives made up of differently constituted districts." He makes New York say, "I never promised to submit to it forever under your new arrangement." On the contrary, New York agreed to a Constitution which might by its own terms be amended in every point save one, the equality of the States in the Senate. She agreed, *whatever else happened*, to stand irrevocably by this arrangement. Nothing less than a revolution can change it. This provision alone of the whole Constitution is outside the pale of legal alteration.

7. "It implies what the whole current of our history shows to be untrue, that the Senate has during the past century failed to meet the just expectations of the people, and that

the State Legislatures have proved themselves unfit to be the depositories of the power of electing Senators." This objection finds its answer in the first part of this paper, where it is shown that in some respects the Senate has failed "to meet the just expectations of the people," and that the Legislatures are "unfit" to choose Senators.

8. "The reasons which require this change, if acted upon and carried to their logical result, will lead to the election by the direct popular vote, and by popular majorities, of the President and of the judiciary, and will compel the placing of these elections under complete National control." Some of the reasons given would lead logically to the popular choice of the President,—not one of them to that of the judiciary. The case for the popular election of Senators is much stronger than for that of the President. The popular election of Senators requires no "complete National control." Indeed, the amendment passed by the House was so worded as to exclude National interference. The States now have complete control of the choice of the Legislatures which elect Senators. It is proposed to give them instead complete control of the election of Senators. One may assent to every argument here presented for the popular election of Senators and be under no logical necessity of advocating the popular election of President.

9. "It will result in the overthrow of the whole scheme of the national Constitution as designed and established by the framers of the Constitution and the people who adopted it." It will rather carry out one of the great fundamental conceptions of the framers of the instrument by separating more completely the spheres of State and National activity. Senators will be more in accord with the prevailing sentiment of their States. The Legislatures will be freed from a duty which interferes with their functions and impairs their usefulness. It will diminish boss rule, improve the State governments, and bring questions of principle to the front. It will permit the man who is so inclined to support, untrammelled, one party as a National party and another as a State party.

While it does these things it will leave to the Senate those peculiar characteristics which are its glory.

• We conclude, in spite of objections, that this change is desirable. Is it also attainable? We think it is. Let the advocates of the change, wherever possible, induce the party to which they belong to place in nomination at the State Convention one of their best men as a candidate for United States Senator whenever a Legislature is to be chosen which will have the duty of electing a Senator, at the same time passing a resolution that every legislator belonging to the party is expected to vote for him. This plan was followed by the Democrats of Illinois in 1890 and the Republicans of Minnesota in 1892. If the plan once gets a foothold it will become universal, for there can be no doubt of its support among the masses. The Senate will be made up entirely of men who, in the first instance, received their honors at the hands of a convention, and such a Senate would readily accede to the demands of the people. This is not a party question. The change has able advocates in both parties. If its friends push it forward without allowing it to become a party question, its triumph is not far distant.

# INDEX TO ELEVENTH VOLUME

OF

## Johns Hopkins University Studies

IN

### HISTORICAL AND POLITICAL SCIENCE.

#### A

Abbot, *Rev.* Henry, criticizes the Federal Constitution, 260 (foot-note), 261.

Abda, a slave, 388.

Act, for the defense of liberty, 406; of 1833, 418.

Adams County, early settlers of, 296.

Adams, James, his good work in N. Carolina, 223, 224.

Adams, John Quincy, on the Amistad case, 433, 434-437.

Adams, *Judge* Rufus, and *Miss* Crandall's school, 417.

Agassiz, 273.

Alabama, local government of, 481-489; county division and its functions, 481-483; municipal corporations, 483, 484; taxations, 484, 485; the school system of, 485-489.

Alamance, the battle of, 248.

Albemarle, the, 209.

Alden, Edmund K., on the World's Representative Assemblies of To-day, 51-92.

America, workingman of, 28; immigrants in, 38; universal suffrage of, 54.

American Colonization Society, 442.

American Fur Company, 289.

"Amistad," the, negroes on, 426.

Anti-slavery, appeal quoted, 392; growth of spirit, 438; society in Conn., 439; the petition to Congress, 439; convention, 441.

Arabas, Jack, the case of, *vs.* Ivers, 407.

Argentine Republic, term of senator, 63.

Arkansas, local government of, 516-520; county system, 516; public roads, 516, 517; house of correction, 517; schools, 517-519; general notion, 520.

Articles of Confederation of United New England Colonies and slavery, 379.

Ashe, Capt. S. A., 210.

Assemblies, Alden on the World's Representative, of To-day, 51-92; representative in South America, 78; table of the larger representative, 85-92.

#### B

Bacon, *Dr.* Leonard, 442.

Baldwin, Roger S., 430.

Banneker, Benjamin, the negro astronomer, 104.

Baptists in N. Carolina, 230, 231 (foot-note); restrictions and persecution of, 249-251 (and foot-note).

Barbour, *Justice*, 435.  
 Barlow, Joel, 441.  
 Battle, *Hon. K. P.*, 210.  
 Belgians in America, 37.  
 Benson, George W., 416.  
 Bentley, Arthur F., on The Condition of the Western Farmer, 285-370.  
 Bethel Literary Society, 185.  
 Bicameral system, 56.  
 Bill of Rights, 214 (foot-note).  
 Bishop of London, 236.  
 Bituminous coal mining, family budgets in, 14-18.  
 "Black Code," the, 103, 105; abolition of, 130, 131, 382, 385.  
 Blair, *Dr.*, on the N. Carolina Presbyterian, 230 (foot-note).  
 Bolton, case of, *vs. Haddam*, 410.  
 Brackett, *Dr. J. R.*, and "The Negro in Maryland," 100.  
 Brazil, term of senator, 63.  
 Briton, earnings and standard of life, 36.  
 Brockman, F. S., on the local government of Georgia, 490-499.  
 Browning, Sophia, purchases her husband's freedom, 104.  
 Bryce, James, quoted, 60.  
 Borden, William, and affirmation question, 249, 250.  
 Boswell, F. A., 162.  
 Boyd, *Hon. John*, and slavery, 405.  
 Buffum, Arnold, 416.  
 Bulkley, J., 420.  
 Bulloch, J. S., the case of Nancy Jackson, *vs.*, 422.  
 Bundesrath, the, 65.  
 Burleigh, Charles C., 420.  
 Burleigh, W. H., 421, 446.  
 Burrington, George, and his administration, 225-229.

## C

Calderon, the Spanish minister, 429.  
 Caldwell, *Dr.*, 241 (foot-note).  
 Caldwell, *Rev. David*, criticizes the Federal Constitution, 260, 262.

Campbell, B. M., and valuation of slaves, 108, 110.  
 Canada, Provincial Parliaments, 79.  
 Carolina Indians in Conn., 384.  
 Carson, *Colonel Perry*, 162.  
 "Cary Rebellion," the, 210.  
 Caulkins, on value of slave, 390.  
 Chamber of Deputies, the French, 55; apportionment in, 61.  
 Chamber of Deputies, Italian, parliamentary manner in, 74.  
 Chandler, W. E., 167.  
 China, education in, 269.  
 Christian Union, the Washington, and the negro education, 119.  
 Cinquez, Joseph, 427.  
 "Civil Government," Fiske's, quoted, 66.  
 Civilization Society, the African, and the negro education, 118.  
 Clarke, Isaac Edwards, on the progress of negroes, 124 (foot-note).  
 "Club law," 290.  
 Coahuila, the province of, under the Mexican State, 504; constitution for, 505.  
 Code, the Black, 382, 385; of 1650, 387 (foot-note).  
 Colchester, the case of, *vs. Lyme*, 414.  
 Columbia, the District of, the best place for a study of the negro problem, 100; the slavery not favored in, 102; statistics of population in (1810-1860), 103; condition of the negroes in, before the war, 104, 105; abolition of slavery in, 106; statistics in (1860-1874), 111, 112; establishment of public schools for negroes in, 115-118; restrictions upon negroes in, 130, 131; negro suffrage question in, 156, 157; results of universal male suffrage in, 160, 161; elections and administration of, 160-170; investigating committee's



- report, 170-173; experiment of negro suffrage in, 173-180.  
 Columbia, the town of, *vs.* Williams *et alium*, 410.  
 Comenius, 271.  
 Commission of Congress to the Department of Labor quoted, 9.  
 Confederation of the United New England Colonies and slavery, 380.  
 Confucius, 269.  
 Congress and Parliament, 51, 52; orders and regulations of, 67-69; committee organization of, 70, 71; manner of proceedings in, 73; personality of members of, 74, 76.  
 Congressional districts, disproportionate representation, 62.  
 Connecticut, History of Slavery in, by Dr. B. C. Steiner, 377-454; divisions of the history of slavery in, 378; the laws on slaves quoted, 381, 382, 383; emancipation of slaves, 383; law against slave trade, 386; first negroes in, 393, (note); case of, *vs.* Crandall, 420.  
 Constitution, and national governments, 66.  
 Cook, George F. T., superintendent of the negro schools, 121.  
 Cook, John F., 105.  
 Corporation and Test Acts, 212.  
 Cortes, the, 65.  
 Council Bluffs, 289.  
 Crandall, Prudence, and her school, 402, 415-422; the case of the State *vs.*, 420.  
 Culloden Point, 426.  
 Cuvier, 273.

## D

- Daggett, *Judge*, 421.  
 Danish Folkething, the, 65.  
 De Argalz, the Spanish minister, 431.  
 Deming, *Hon.* Henry C., 405.  
 De Pressensé, 13.

- Dacey, M. E., quoted, 83.  
 Discontent, social, factors of, 24.  
 Dissenters in N. Carolina, the legal recognition of, 211; under the administration of Burrington and Johnston, 225-234.  
 Distribution of seats in State legislatures, 62.  
 Dixon, *Senator*, and the colored suffrage, 158.  
 Dobbs, Arthur, becomes Governor of N. Carolina, 234; and the Established Church, 238, 239.  
 Dodson, B. W., on the local government of Arkansas, 516-520.  
 Dwight, Theodore, 441.

## E

- Eaton, *Judge* Joseph, 420.  
 Edenton Academy, the, 227, 241.  
 Education, the Philosophy of, by Dr. W. T. Harris, 269-277; the literature of, 269-271; problems peculiar to American education, 271, 272; opposing systems of Pestalozzi and Herbart, 272, 273; Rousseau's system of, 273-275; Herbert Spencer's, 275-277.  
 Edwards, Henry S., 444.  
 Edwards, Jonathan, *Jr.*, 439, 440, 441.  
 Edwards, Morgan, 231 (foot-note).  
 Election, direct, 56.  
 Ellsworth, *Hon.* Wm. W., 420.  
 Ellsworth, Oliver, and slavery, 398.  
 Emancipation Day, celebration of, 198.  
 Emery, *ex-Mayor*, 153.  
 "Entry," explanation of, 368.  
 Established Church, the, in N. Carolina, its missionaries, 217-224; under Gov. Burrington, 227-229; under Gov. Johnston, 229-234; hatred of, 242; fall of, 255-258.

## F

- Family budgets, bituminous coal mining, 15; of coal mining industry averaged, 18; bar iron, 19.
- Federal Constitution, the, and the question of religious freedom, 260-263.
- Fertig, J. W., on the local government of Kentucky, 521-531.
- Florence, 290.
- Florida, the local government of, 502, 503.
- Forsyth, 432.
- Fort Kearney, 293.
- Fowler, *Dr. Wm. C.*, 378 (foot-note).
- Fox, Stephen, the British minister, 434.
- France, voting system of, 59, 60; committees in the Assembly, 69.
- Freedman's Bank, the, 183.
- Freedmen's Aid Commission, the New England, and the negro education, 118.
- Freedmen's Hospital, the, 191.
- Freedmen's Relief Association, the Pennsylvania, and the negro education, 118.
- French colonies, the, causes of failure of, 532.
- Frenchman in America, 37.
- Frost, *Esq.*, 416.
- Fundamental Constitutions of Carolina, the, 465, 466.

## G

- Gardner's Point, 426.
- Garrett, *Hon. W. R.*, 478.
- Gaston, *Judge William*, and the N. Carolina constitution on religious belief, 263-267.
- Gedney, *Lieut.*, 426, 427, 428, 431.
- Geer, case of, *vs. Huntington*, 407.
- Georgia, the local institutions of, 490-499; motives for the foundation of, 490; the primary scheme of government

- of, 491; four periods in the development of, 492; the local government of to-day, 492-494; the grand jurors, 495; the public roads, 496; the public schools, 497-499.
- German constitution quoted, 65.
- Germans, the, standard of living, 37.
- German methods of education, 272.
- Gillette, Francis, 403.
- Gilpin, *Hon. Henry*, 434.
- Gladstone, 63.
- Goddard, Calvin, 420.
- Goodwin, M. B., and a history of the colored people's schools, 101.
- Gordon, William, his good work in N. Carolina, 221-223; and slavery, 398.
- Gould, *Dr. E. R. L.*, on the Social Condition of Labor, 5-42.
- Government land in the West, 358.
- Grand Army of the Republic, the, encampment in Washington, 148.
- "Grasshoppers" in Nebraska, 307, 310.
- Greek education, the, 270.
- Green, *Capt.*, 428.
- Green, *Rev. J. W.*, and the quality of negro voters, 161-166.
- Grimes, *Senator*, 105, 131.
- Griswold, *Hon. Mathew*, 394.
- Griswold, Roger, 440.
- Grundy, Felix, and negroes on the "Amistad," 430.
- Guadalupe Hidalgo, the treaty of, 504.

## H

- Halifax convention, 257.
- Hall county, settlement of, 298-302; location of, 298; first settlers of, 299-302; settlers of, and Indians, 301.
- Hampton, *Gen. Wade*, 462.
- Harris, Sarah, 415.
- Harris, *Dr. W. T.*, on the Philosophy of Education, 269-277.

Harrison, *Gen.* W. H., 532, 533.  
 Harrison, *Gov.* H. B., and Personal Liberty Bill, 405.  
 Hart, *Rev.* Levi, 398.  
 Harvard University, 123.  
 Hawley, *Lieut.* John, 391.  
 Hawley, *Gen.* Joseph, 416.  
 Hayes, *ex-President*, and the Fifteenth Amendment, 462.  
 Haynes, John, on popular election of U. S. Senators, 547-560.  
 Henry, W. W., and the claim of a first free church for Virginia, 213 (foot-note).  
 Herbart's system of education, 273.  
 Hindu's education, the, 269.  
 Holbrook, Abijah, 438.  
 Honduras, the President of, 66, note.  
 Homer, 270.  
 Hosmer, *Chief Justice*, 412.  
 Hough, *Dr.* Franklin, 101.  
 Huntington, Benjamin, and slaves, 397.  
 House of Commons, the Canadian, personality of the members of, 77.  
 House of Lords, the British, 65.  
 House of Representatives, the American, growth of, 58; orders of, 68; committees in, 70.  
 Howard University and negro education, 119; and Medical Society of District of Columbia, 136-139.  
 Humphrey, David, 396.  
 Humphreys, *Col.*, 441.

## I

Indians, danger from, 293.  
 Indian slavery, 379-381; prohibition of importation of, into Conn., 384.  
 Industrial Association, the National, 123.  
 Ingersoll, C. J., 438.  
 Ingle, Edward, on the "Negro in the District of Columbia," 95-202. *See* Table of Contents, 97.  
 Iredell, James, replies to Abbott's criticism on Federal Constitution, 261.

## J

Jackson, Francis, 432.  
 Jackson, Nancy, the case of, *vs.* Bulloch, 422.  
 Japan, National Parliament of, 81.  
 Jefferson, Thomas, 114.  
 Jocelyn, S. S., 429, 443, 444.  
 Johnson, *President*, and the colored schools' administration, 121.  
 Johnston, Gabriel, becomes Governor of N. Carolina, 229; and his administration, 229-234.  
 Jones, Arabella C., 115.  
 Judson, *Hon.* Andrew T., 417, 420, 428, 431.

## K

Kelley, Abbey, 447.  
 Kentucky, the local government of, 521-531; early history of, 521, 522; county organization, 522-524; courts, 524-526; school districts, 526-528; road districts, 528, 529; municipalities, 529-531.  
 Kieft, *Governor*, and slavery, 380.  
 Kingsbury, Ebenezer, case of, *vs.* Tolland, 408.

## L

Labor, United States Department of, 5; report of, 5; functions of, 9; the investigation of, 10; the object of the inquiry, 11-12; inquiry of, the object of, 11, 12; and McKinley tariff, 12, 13; results of, 13; method of, 14.  
 Lancaster, Wm., 262.  
 La Salle and the establishment of the colony in Texas, 504.  
 Leavitt, Joshua, 429.  
 Legislation and civil liberty, 67.  
 Legislatures, classification of, 51; of the States, 53; size of, compared, 58; distribution of seats in State, 62; and executive, 65, 83; order and regula-

tions, 67-69; committee organization, 70, 71; parliamentary manners, 73; personality of members of, 74-76.  
 Leisler, *Governor*, 381.  
 Lenoir, *Gen. Wm.*, 260, 262.  
 Liberty of Conscience Act, the, 232.  
 Lincoln, 295.  
 Lincoln, Abraham, and the Emancipation Proclamation, 107.  
 Local legislature, committee organization, 72; in South America, 78; in England and Wales, 78, 79; in Australia, 79; in France, 80; in other European countries, 80, 81.  
 Locke, John, and the "Fundamental Constitutions of Carolina," 465.  
 Loring, Ellis Gray, 432.  
 Louisiana, local government of, 480; early history of, 532, 533.  
 Lower House and people, 65.  
 Lyell, 273.

## M

Maine, *Sir Henry*, quoted, 51, 59.  
 Martin, *Governor*, 256.  
 May, *Rev. Samuel J.*, 416, 444.  
 Mecklenburg, in N. Carolina, for religious freedom, 256, 257.  
 Medical Society of the District of Columbia, the, and the negroes, 136-139.  
 Mencius, 269.  
 Mendi Mission, the beginning of, 438.  
 Methodist Ecumenical Conference, the, and the colored delegate, 152, 153.  
 Metropolitan Railroad Company, the, and the negro restriction, 132.  
 Mexico, occupies Texas, 504.  
 Mining industries, cost of production of, 38.  
 Missionary Society, the American, and negro education, 118.  
 Mississippi, the local government of, 499-501.

Missouri, local government of, 532-546; county and court organization, 534-536; township, 536-538; school district, 538-540; township *versus* county system, 541-544; classification of cities, 544, 545.  
 Missouri, the, 239.  
 Montauk Point, 426.  
 Montes, Pedro, 426.  
 Mortgage Company of Nebraska, 332.

## N

Nebraska, first settlers of, 289, 291, 292, 296; opening of, 290; first cities of, 290; food of early settlers of, 297; and railroad companies, 298; Mormons in, 300; migration of home-seekers to, 359; the progress of settlement in, 291, 294; settlement in the western, 293; settlement in the eastern, 294.  
 Negroes, the, in the District of Columbia, on, by E. Ingle, 99-202; condition of, before the War, 104, 105; valuation of, 108, 109; increase of, 111; education of, 115; establishment of manual training for, 124; restrictions upon, 130, 131; right to hold office given to, 131; equal rights given, 133; and the Medical Society, 136-139; proportion and kind of offices held by, 140, 141; complaints against the whites, 142; suffrage questions, 156-159; property of, 182; establishment of banks among, 183; social progress of, 184, 185; churches among, 187, 188; newspapers among, 188, 189; destitution among, 190; statistics of mortality and crimes among, 191-196; politics among, 198, 199; in Connecticut, 382; first in Conn., 393 (foot-note); law against establishment of schools for, 402; and Supreme Court, 408; on the "Amistad," 426.

- Negro problem, valuable literature on, 101.
- Negro schools, establishment of, 115-118; rate of taxes for, 116; legislation of 1868, 120; President Johnson's veto, 121; administration of, 121, 122; progress of, 123-125; hindrances for the better results of, 126-129.
- New Bern Academy, the, 227.
- New England, town-meeting the center of political activity of, 464.
- New Haven, the case of, *vs.* Huntington, 414; and schools for the colored people, 442.
- Nix, W. F., on the local government of Alabama, 481-489.
- Noiré, 273.
- Non-importation Act of 1774, 378.
- "Normal Family" defined, 32; budgets of, 32.
- North Carolina, Church and State in, by Dr. S. B. Weeks, 205-267; problem of a free church in, 213; the Vestry Act of 1715, 215-217; works of the S. P. G. in, 217-224; Gov. Burrington's administration, 225-229; Gov. Johnston's administration, 229-234; fight among different parties in, 234-241; laws concerning marriage and muster, 244-249; nature of persecutions in, 250-254; fall of the Establishment, 255-258; adoption of a State constitution, 259; criticisms and adoption of the Federal Constitution, 260-263; controversy on the 32d section of the Constitution of 1776, 263-267. Bibliographical note, 267. *See* Table of Contents, 207, 208.
- "Local Government" in: by W. A. Webb, 464-475; the germ of, 468; after the Revolution, 469, 470; after the Civil War, 470, 471; after 1875, 472-475.
- Northup, J. E., on the local government of Missouri, 532-546.

## O

- Oberlin College, 123.
- Occasional Conformity Bill, the, 226.
- Omaha, the tribe, 289.
- Orleans, the Territory of, 532, 533.
- Otoes, the, 289.

## P

- Paddock, *Senator*, quoted, 290.
- Page, Thomas Nelson, 465.
- Parliament and Congress, 51, 53; Victorian, 54; size of, 58; officers of, 67, 68; orders and regulations of, 69; personnel of, 76, 77.
- Pennington, *Rev. James, D. D.*, 446.
- Pequod war, 379.
- Perquimans, 222.
- Persian education, the, 269.
- Pestalozzi's system of education, 272, 273.
- Peters, *Judge*, 412.
- Phelps, Amos A., 446.
- Phoenician education, the, 270.
- Pierce, M. William, 379.
- Pitkin, Elisha, 411.
- Pitkin *et al.*, the case of, *vs.* Pitkin *et al.*, 411.
- Platte, the, river, 292.
- Plattsmouth, 290.
- Poncas, the, 289.
- Presbyterians in N. Carolina, 230; right of marriage, 245-247.
- Provincial Congress in N. Carolina, establishment of, 259.
- "Proving up," explanation of, 368.
- Purvis, *Dr. Chas. B.*, 137.

## Q

- Quakers in N. Carolina, unjust laws on marriage, muster, and affirmation, 244-250; question of oath, 259 (foot-note). *See also* Dissenters.
- Queen's Museum, 227; abrogation of the charter of, 243.



## R

- Ramage, *Dr. B. J.*, 501.  
 Reed, a missionary, 236; on the Dissenters in N. Carolina, 238.  
 Reeves, *Judge*, on slavery, 387 and note.  
 Referendum, and "Initiative," 83.  
 Reformed Presbyterian Mission, the, and the negro education, 118.  
 Reichstag, German, 55, 61; and the executive, 67; opening of, 73.  
 Representatives, the U. S., re-elections of, 64; and citizens, 65.  
 Rhode Island Anti-Slavery Society, 439.  
 Richards, *Capt. Thomas*, 388.  
 Roman Catholics in N. Carolina, and the 32d section of the constitution of 1776, 263-267.  
 Roman education, the, 270.  
 Rousseau, 271; and his influence on education, 273-275.  
 Ruiz, Jose, 426.

## S

- St. Louis, city government of, 544, 545.  
 Saline lands, the, in Arkansas, 517.  
 Salt Creek, 292.  
 Saltonstall, *Governor*, and slavery, 388.  
 Sanderson, W. M., on the local government of Texas, 504-515.  
 Sanford, *Judge*, quoted, 406.  
 Saunders, *Hon. W. L.*, 210.  
 Schism Act, the, 226, 227, 240; enforcement of, 241, 243.  
 Scotch-Irish Dissenters in N. Carolina, 257.  
 Sedgwick, Theodore, *Jr.*, 429.  
 Senate of the United States, functions of, 59; committees in, 71.  
 Senators, the United States, election of, 60; re-election of, 64; term of State, 64; popular election of, 547-560.  
 Seward county, the first settlers of, 295; the school census for, 295.

- Shadd, *Dr. F. J.*, and the Medical Society of the District of Columbia, 136-139.  
 Shepherd, *Governor*, 169.  
 Sherman, Roger, and slavery, 398, 440.  
 Sioux, 289.  
 Slave, treatment of, in Conn., 378, 391, 451; emancipation of, in Conn., 384, 396, 400, 404, 405; Judge Reeves and emancipation of, 387 and foot-note; trials concerning, 387; case of escaped, 388, 389; Miss Caulkins on value of, 390; Dr. Fowler, and emancipation of, 393 (foot-note); social condition of, 448-452; election of governor, 448; in the Revolution, 394; acts of enlisting for the war, 394, 395; a martyr, Lambert, 396; service of, 396; petition of, for liberty, 397.  
 Slave trade, case in regard to, 408.  
 Slavery, not favored in District of Columbia, 102; abolition of, in District of Columbia, 106; colonial legislation on, 381-387; Governor Saltonstall on, 388; opinions of the forefathers on, 398-400; Danbury town-meeting and, 400; State legislation on, 400-407; prohibition of slave trade, 401; abolition of, in Conn., 444, 452.  
 Smith, Adam, 235.  
 Smith, *Dr. Thos. G.*, 137.  
 Society for the Propagation of the Gospel, the, in N. Carolina, 217-224.  
 "Soldier's declaratory statement," explanation of, 368.  
 South, the, proportion of the whites and the colored in, 460-462; nature of original settlers in, 464.  
 South Carolina, the local government of, 501, 502.  
 Southern town, the school the center of political activity of, 459.  
 Sovereigns in legislation, 66.  
 Spaight, R. D., 262.

Spanish Cortes, 65.  
 Speaker, the functions of, 68.  
 "Speculator," defined, 304 (foot-note).  
 Spencer, Herbert, and education, 275-277.  
 Spencer, *Judge Samuel*, 262.  
 Spotswood, *Gov.*, sent in the Virginia troops to N. Carolina, 211.  
 Staples, Seth P., 429.  
 State legislatures, committee organization, 71; period of session, 72.  
 Steiner, *Dr. B. C.*, on History of Slavery in Conn., 377-454.  
 Stewart, *Rev. Alexander*, 236.  
 Story, *Justice*, 436.  
 Strong, Henry, 420.  
 Suffrage, universal, in America, 54; qualifications, 55, 57.  
 Sumner, *Senator*, and the Black Code, 131; and the application of the non-exclusion principle to railroads, 132.  
 Switzerland, Federal Assembly, 67; Federal Constitution of, quoted, 82.  
 Sylvester, Richard, 101.

## T

Tanner, Alethia, purchases her and her sister's freedom, 104, 105.  
 Tappan, Arthur, 420.  
 Tappan, Lewis, 429, 437.  
 Taylor, *Rev. N. W.*, on slavery, 405.  
 Teachers' Association, Volunteer, and the negro education, 118.  
 Tennessee, local government of, 476-480; the Quorum and the quarterly courts, 476, 477; the school district, 477, 478; local taxation in, 478, 479.  
 Teran, Don Domingo, in Texas, 504.  
 Texas, the local government of, 504-515; under the Mexican government, 504-506; after the separation from the Mexican government, 506, 507; after the

admission into the Union, 507-509; town system, 509, 510; schools, 510-513; county school officers, 513, 514.  
 Thompson, *Judge*, 430, 432.  
 Toleration Act, the, 212.  
 Toucey, Isaac, 445.  
 Township, Harrison, 286; settlement of, 287, 303; economic history of, 302; description of, 302, 303; condition of civilization in, 305, 356; expenses of settlers of, 306; settlers of, and Civil War, 306; hardships of the first settlers of, 307; standard of living in, 308; financial condition of the early settlement, 310; change in ownership, 312; purchases and sales of lands, 314; causes of settlers leaving, 317-320; land values, 321, 357; renting of farms, 322; credit, 322, 357, 367; rate of interest, 323; taxation, 324, 360; markets, 326; prices in, 328; freight rates, 329, 360; land and ownership, 331-336; quality of land in, 332; resident owners, 333-336, 354; chattel mortgages, 337, 361; real estate mortgage, 338-354; estate owned by non-residents, 342; land improvement, 350, 355; farms of, 354; farmers' condition, 356, 360; economic influence, 361-363; pioneer farmers and the farmers of to-day, 365.  
 Tract Society, the American, and the negro education, 118.  
 Tracy, Uriah, 441.  
 Tremain, Mary, and "Slavery in the District of Columbia," 100.  
 Trumbull, *Dr. J. H.*, quoted, 395, 396.  
 Tryon, William, becomes Governor of N. Carolina, 240.  
 Turner, F. P., on the local government of Tennessee, 476-480.  
 Tuscaroras, the, and the South Carolinians, 384.

## U

- Unicameral bodies, 56.  
 "Unionist," the, 420.  
 Union Pacific Railroad, and early settlers of Nebraska, 293, 294; the company, 354.  
 University of Michigan, 123.  
 Upper House and Lower House, 58, 65, 69; terms of members of, 63.  
 Urmstone, John, and his life in N. Carolina, 218-221.  
 Uruguay, committees of parliament, 72.

## V

- Van Buren, *President*, and the Amistad, 431, 432.  
 Vanhall, a slave, 389.  
 Vestry Act, the, of 1715, 215-217; of 1768, 256.  
 Vincent, Dr. J. M., quoted, 82 (foot-note).  
 Virginia troops, the, sent into N. Carolina, 211.

## W

- Wadsworth, *Capt.* Joseph, 388.  
 Wages, and labor cost of manufacture, 39.  
 Walker, Susan, 119.  
 Wallach, *Mayor* Richard, 157.  
 War of Regulation, the, 248.  
 Washington and Alexandria Railroad Company, the, and the negro restrictions, 131.  
 Washington and Georgetown Company, the, and negro restriction, 132.  
 Washington, city of, industrial state in, 186.  
 Webb, W. A., on the local government of N. Carolina, 464-475.  
 Weeks, S. B., on Church and State in North Carolina, 205-

267. See Table of Contents, 207, 208.  
 Welch, Jonathan, *Esq.*, 420.  
 Welch, *Prof.* Rodney, quoted, 306.  
 White, H., quoted, 75.  
 Whitsitt, Dr. W. H., on N. Carolina Baptists, 231 (foot-note).  
 Wilkinson, *Gov.*, 533.  
 Williams, Joseph, 162.  
 Williams, *Judge*, 413; and slavery, 423.  
 Wilson, *Prof.* Woodrow, quoted, 52, 69.  
 Wilson, *Senator*, and the slavery, 105.  
 Wilson *et al.*, the case of, *vs.* Hinkley *et al.*  
 Wimodaughsis, the, and the race question, 151, 152.  
 Winckelman, 274.  
 Windsor, the case of, *vs.* Hartford, 410.  
 Wolcott, Oliver, *Sr.*, 445.  
 Woodbury, *Mrs.*, 123.  
 Woodward, W. R., 110.  
 Workingmen, average condition of, 24; earnings of, compared, 27; food of, 28, 29; expenditure for alcoholic drinks, 30; cause of efficiency of, 42; *family budgets*: consideration of, 15-23; of receipts and expenditures, 15; in bituminous coal mining, 14-18; in bar-iron industry, 20, 22; steel manufacturing, 23; *family*: size of, compared, 14, 20; earnings of, compared, 15, 20; expenses of, 16, 20, 27; solidarity of, in Europe, 26; surplus, 30, 31.  
 Wright, *Hon.* Carroll D., 5; and tariff legislation, 10.

## Y

- Young Men's Christian Association, colored, organized, 150, 188.















